

Future of Florida's Families Committee

Wednesday, March 15, 2006 9:00 AM - 11:00 AM 12 House Office Building



Florida House of Representatives Future of Florida's Families Committee

Bill Galvano Chair

AGENDA March 15, 2006 9:00 AM – 11:00 AM 12 HOB

Opening Remarks by Chair Galvano

Consideration of the following bill:

HB 1231 Child Care by Rep. Ausley

Consideration of the following Proposed Committee Bill:

PCB FFF 06-03 - Child Protective Services

Presentation relating to Fragile X Syndrome

Presentation from the Office of Program Policy Analysis and Government Accountability (OPPAGA) relating to:

Comparison of Child Welfare Program Performance Pre- and Post-Community-Based Care

Closing Remarks by Chair Galvano

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #:

HB 1231

Child Care

SPONSOR(S): Ausley TIED BILLS:

None.

IDEN./SIM. BILLS: SB 270 and SB 1510

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Future of Florida's Families Committee		Davis (Collins
2) Health Care Appropriations Committee		7	
3) Health & Families Council			
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SUMMARY ANALYSIS

HB 1231 amends existing statutory provisions relating to chapter 402, F.S., pertaining to the Teacher Education and Compensation Helps scholarship program, the Gold Seal Quality Care designation, revising the definition of the term "screening", expanding the Department of Children and Families (DCF's) licensing authority, revising disciplinary actions and fines, and requiring minimum safety standards for family day care homes.

Specifically, this bill:

- Transfers authority for the administration of the Teacher Education and Compensation Helps (T.E.A.C.H.) scholarship program from the Department of Children and Families to the Agency for Workforce Innovation.
- Revises provisions relating to the background screening of volunteers in child care settings regulated by the Department of Children and Families to remove conflicting language.
- Revises provisions relating to the department's enforcement authority in registered family day care homes to provide the same escalating enforcement options available in other child care settings.
- Provides the department with specific rulemaking authority relating to safety standards in licensed family day care homes.
- Revises the Gold Seal Quality Care program to require a child care provider to maintain a certain compliance history in order to maintain their Gold Seal status.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 402.3017, 402.281, 402.302, 402.309, 402.310, 402.313, 402.3131.

According to the Department and Children and Families, this bill has a potential fiscal impact. SEE FISCAL COMMENTS section of bill for a detailed analysis.

This bill shall take effect on July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: This bill increases the responsibility and the authority of the Department of Children and Families in the licensure and registration of certain child care facilities.

Safeguard Individual Liberty: This bill decreases an individual's or private organization's options regarding the conduct of their own affairs because licensed family day care homes potentially could face larger administrative fines.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Health and Safety: According to DCF, the provisions of this bill are intended to better ensure the safety of children in child care through the establishment of consistent safety standards and enforcement measures and were developed with the input of the following organizations:

Florida Family Child Care Homes Association
Florida Association of Child Care Management
National Association of Child Development Education
Florida Children's Forum
Florida Partnership for School Readiness
Early Childhood Association of Florida

T.E.A.C.H. Program: The Teacher Education and Compensation Helps (T.E.A.C.H.) program addresses the issues of poor education, low compensation, and high turnover in the child care sector by providing early childhood professional development opportunities for teachers, directors, and family child care providers. The T.E.A.C.H. program provides scholarships for child care personnel to pursue a Child Development Associate (CDA) credential or equivalency, an A.S. degree in Child Development and Education, or a Director's Credential. The Florida Children's Forum is the authorized agent for the T.E.A.C.H. Early Childhood Scholarship Program in Florida. Although s. 402.3017, F.S., directs/authorizes the Department of Children and Families to administer the program, the Agency for Workforce Innovation (AWI) has actually been responsible for administering the program since 2002, pursuant to the implementing bill of each year's General Appropriations Act.

In 2000, the Legislature authorized the Department of Children and Family Services (DCF) to contract for the administration of the Teacher Education and Compensation Helps (T.E.A.C.H.) scholarship program, which provides educational scholarships to caregivers and administrators of early childhood programs, family day care homes, and large family child care homes (s.15, ch. 2000-253, L.O.F.; s. 402.3017(2), F.S.).

Beginning in fiscal year 2002-2003 and subsequent years thereafter, each year's appropriations implementing act has authorized the AWI to contract for administration of the T.E.A.C.H. program (s. 55, ch. 2002-402, L.O.F.; s. 15, ch. 2000-253; ss. 55, 79, ch. 2002-402; s. 73, ch. 2003-399; s. 55, ch. 2004-269; and s. 40, ch. 2005-71).

Gold Seal Quality Care Program: In 1996, the Florida Legislature established the Gold Seal Quality Care program to recognize those child care facilities and homes that are accredited by nationally recognized associations whose standards reflect a level of quality of child care that exceeds minimum licensing standards. A private pre-kindergarten provider must be Gold Seal or otherwise accredited in

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order to participate in the Voluntary Universal Pre-kindergarten program in s. 1002.55(3), F.S. This has resulted in heightened awareness of Gold Seal and its correlation to quality child care.

According to DCF, a disconnect currently exists between the level of quality implied by Gold Seal Quality Care status and the licensure compliance history of a child care program. Gold Seal status is conferred at the request of the provider upon becoming accredited by an accrediting agency that has been recognized by the Department of Children and Families as having accreditation standards that substantially meet or exceed the National Association for the Education of Young Children (NAEYC), the National Association of Family Child Care, or the National Early Childhood Program Accreditation Commission. The accrediting standards of an approved accrediting agency may or may not address a provider's regulatory compliance history. Current law, s. 402.281, F.S., does not provide the Department of Children and Families with the authority to "revoke" a provider's Gold Seal status based on non-compliance with state child care standards, nor does it provide the department with the authority to require the accrediting agency to revoke the provider's accreditation for the same.

Background Screening of Volunteers: Current law contains the following conflicting language relating to the background screening of volunteers in a child care setting:

Pursuant to s. 402.302(3), F.S., volunteers who work more than 40 hours per month are considered "child care personnel" for purposes of background screening. Pursuant to s. 402.305(2), F.S., "child care personnel" are subject to a Level 2 background screening. However, s. 402.302(13), F.S., states that screening for volunteers that meet the definition of child care personnel only includes a local criminal records check and a statewide criminal records correspondence check (not an employment history check and federal criminal records check).

Enforcement Authority in Registered Family Day Care Homes: Although statute provides a series of enforcement options for non-compliance with uniform child care standards in licensed child care facilities, licensed family day care homes, and large family child care homes, the department currently has very limited enforcement authority with regard to *registered* family day care homes. Section 402.310, F.S., relating to escalating administrative actions, fines, suspension, and revocation applies specifically to *licensed* child care providers.

According to DCF, the lack of enforcement authority relating to registered family day care homes limits the ability of child care licensing staff to timely assure the safety of children in registered care and leaves the department with little recourse in the event of non-compliance by a registered provider. As a result, the department's ability to timely and consistently assure the safety of children in care in registered family day care homes is more limited than in other child care settings. This has been a long-standing problem identified by district legal offices, the General Counsel of the department, the child care program office, and child care field staff.

Pursuant to s. 402.309(1), F.S., a local licensing agency or the department may issue a provisional license to applicants for a license or to licensees who are unable to conform to child care standards, provided adequate provisions have been made for the health and safety of children in care. Provisional licenses are typically issued when background screening or fire inspection backlogs prevent the timely receipt of required documentation, provided the background screening or fire inspection requests were timely submitted. Because the term "child care facility" is used, these provisions apply only to licensed centers, not licensed family day care homes. Current statute does not provide for provisional registration of family day care homes.

Administrative Fines: Statute currently includes the following provisions relating to fines for non-compliance with child care standards:

• Licensed facilities and licensed family day care homes: Denial, suspension, or revocation of a license or imposition of an administrative fine not to exceed \$100 per violation, per day, for

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the violation of any provision of ss. 402.301-402.319 or rules adopted thereunder s. 402.310(1)(a), F.S. In addition, "where the violation could or does cause death or serious harm, the department or local licensing agency may impose an administrative fine, not to exceed \$500 per violation per day." (s. 402.310(1)(a), F.S.)

- Licensed or registered family day care homes: Section 402.313(1)(b), F.S., authorizes the department or local licensing agency to "impose an administrative fine, not to exceed \$100, for failure to comply with licensure or registration requirements."
- Large family child care homes: Paragraph 402.3131(1)(a), F.S., authorizes the department or local licensing agency to "impose an administrative fine, not to exceed \$1,000, for failure to comply with licensure requirements."

Safety Standards in Licensed Family Day Care Homes: DCF currently has the authority to adopt rules relating to minimum safety standards for licensed child care facilities, but not licensed family day care homes. The department's rule authority relating to family day care homes is currently limited to "minimum health standards" rather than "health and safety standards." This inconsistency leaves children in family day care homes more vulnerable to the risk (or the potential risk) of harm than children being cared for in other licensed child care settings.

Effect of Proposed Changes

T.E.A.C.H. Program: The bill amends s. 402.3017, F.S., relating to the Teacher Education and Compensation Helps (T.E.A.C.H.) scholarship program to transfer authority for administration of the program from the Department of Children and Families (DCF) to the Agency for Workforce Innovation. This makes the substantive statute consistent with directives included in the implementing bill since 2002.

House Bill 1231 (section 1) permanently transfers the T.E.A.C.H. scholarship program from DCF to AWI, thereby eliminating the need for the appropriations implementing act to annually reflect the transfer for the fiscal year.

Although current law authorizes, but does not require DCF to contract for the T.E.A.C.H. scholarship program, the bill would require AWI to contract for the program and adopt rules to administer the program.

Gold Seal Quality Care Program: This bill revises s. 402.281, F.S., relating to the Gold Seal Quality Care Program to require a child care provider to maintain the following compliance history in order to achieve and maintain Gold Seal status:

- The child care provider must not have had any Class I deficiencies (as defined by rule) within
 the two years preceding application for Gold Seal Quality Care status. Commission of a Class 1
 violation shall be grounds for termination of Gold Seal status until such time as the provider has
 established a two-year period with no Class 1 violations.
- The child care provider must not have had three or more Class 2 deficiencies (as defined by rule) within the two years preceding application for Gold Seal Quality Care status. Commission of three or more Class 2 violations within a two year period shall be grounds for termination of Gold Seal status until such time as the provider has established a one year period with no Class 2 violations.
- The child care provider must not have been cited for the same Class 3 violation (as defined by rule) three or more times within the two years preceding application for Gold Seal Quality Care status. Commission of the same Class 3 violation three or more times during a two year period

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shall be grounds for termination of Gold Seal status until such time as the provider has established a one year period with none of the same type of violation.

According to the Department of Children and Families, these proposed changes are consistent with department and program goals, and are important for the continued protection of children in child care. The bill provides consistent enforcement measures and safety standards for all child care arrangements to protect the health and safety of all children in care, regardless of the type of setting.

Background Screening of Volunteers: The bill revises s. 402.302(13), F.S., relating to the screening of volunteers, to remove conflicting language. The bill provides for volunteers who meet the definition of "child care personnel" to be subject to the same level of screening as other child care personnel.

Enforcement Authority in Registered Family Day Care Homes: The bill amends s. 402.309, F.S., relating to provisional child care licenses in the following ways:

- Clarifies that a provisional license may be issued to any licensed child care arrangement (licensed center, licensed family day care homes, or licensed large family child care home).
- Authorizes the issuance of a provisional registration to a family day care home that is unable to meet child care standards.
- Expands provisions to enable the department to revoke a provisional license (the department already has the authority to suspend a provisional license), and to revoke or suspend a provisional registration, if periodic inspection or review indicates that insufficient progress has been made toward compliance with licensing or registration standards.
- Requires the department to adopt administrative rules specifying the conditions and procedures under which a provisional license or registration may be issued, suspended, or revoked.

In addition, the bill revises s. 402.310, F.S., relating to disciplinary actions; hearings upon denial, suspension, or revocation of a license; and administrative fines in the following ways:

- Expands enforcement provisions that currently apply to licensed facilities, licensed family day care homes, and large family child care homes to include registered family day care homes -providing the same series of enforcement options for all child care providers.
- Provides for the administrative fine imposed "where the violation could or does cause death or serious harm" [s. 402.310(1)(a), F.S.] to be imposed in addition to, or in lieu of, any other disciplinary action imposed.

According to the Department of Children and Families, the bill provides the department the authority necessary to enforce (through consistent fines and the ability to revoke or suspend registration) the minimal standards for registered family day care homes and ensure greater protection for children in care.

Administrative Fines: The bill revises current statutory language relating to the maximum amount of administrative fines included in ss. 402.313 and 402.3131, F.S., to provide consistent fines for all provider types. The proposed revision provides for the imposition of a maximum of \$100 per violation, per day, regardless of the type of child care setting, which is consistent with guidelines for fines currently imposed upon licensed child care centers.

Safety Standards in Licensed Family Day Care Homes: The bill revises current statutory language regarding licensed family day care homes to provide rulemaking authority regarding minimum safety standards. This will provide safety standards for all child care arrangements to protect the health and safety of all children in care, regardless of the type of setting.

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C. SECTION DIRECTORY:

Section 1: Amends s. 402.3017, F.S., transferring the Teacher Education and Compensation Helps scholarship program from DCF to the Agency for Workforce Innovation.

Section 2: Amends s. 402.281, F.S., adding two subsections of law relating to the Gold Seal Quality Care program.

Section 3: Amends s. 402.302, F.S., changing the definition of the term "screening."

Section 4: Amends s.402.309, F.S., adding licensure or registration responsibilities to DCF over child care facilities.

Section 5: Amends s. 402.310, F.S., adding disciplinary sanctions.

Section 6: Amends s. 402.313, F.S., deleting administrative fine requirements related to family day care homes.

Section 7: Amends s. 402.3131, F.S., deleting administrative fine requirements related to large family child care homes.

Section 8: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

- **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**
 - 1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

DCF offered the following fiscal analysis of HB 1231. This proposal would revise the fee/fine structure relating to non-compliance with child care standards. As a result, licensed and registered

STORAGE NAME: DATE: family day care homes would be potentially subject to an increased administrative fine (\$100 per violation, per day—consistent with guidelines for fines imposed upon licensed facilities and family day care homes—rather than the \$100 limit established by current statute). Large family child care homes would be potentially subject to either a reduced or increased administrative fine, depending on the length of the violation (\$100 per violation, per day—consistent with guidelines for fines imposed upon licensed family day care homes—rather than the \$1,000 limit established by current statute).

In addition, Gold Seal child care providers that participate in the school readiness program (i.e., subsidized child care) are eligible for a higher reimbursement rate than those who have not achieved Gold Seal status. If Gold Seal status is "revoked" due to a negative compliance history, that provider would no longer be eligible for the higher reimbursement rate. However, this proposal will not prohibit such a provider from continuing to participate in the subsidy program at the regular reimbursement rate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Department and Children and Families to adopt rules under ss. 120.536(1) and 120.54, F.S., that provide criteria and procedures for reviewing and approving accrediting agencies for participation in the Gold Seal Quality Care program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

A bill to be entitled

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An act relating to child care; renumbering and amending s. 402.3017, F.S.; transferring authority for administration of the Teacher Education and Compensation Helps (TEACH) scholarship program from the Department of Children and Family Services to the Agency for Workforce Innovation; amending s. 402.281, F.S.; providing additional criteria for a child care provider to obtain and maintain Gold Seal Quality Care designation; authorizing the Department of Children and Family Services to adopt rules; amending s. 402.302, F.S.; revising the definition of the term "screening" to broaden the requirements for the screening of volunteers in child care facilities; amending s. 402.309, F.S.; authorizing the local licensing agency or the Department of Children and Family Services to issue a provisional license or registration to a child care facility, family day care home, or large family child care home; providing that a provisional license or registration may not be issued unless child care personnel are screened according to law; requiring the department to adopt rules for issuing, suspending, and revoking provisional licenses and registrations; amending s. 402.310, F.S.; revising applicability of disciplinary actions and fines to include certain providers registered with the department; amending s. 402.313, F.S.; removing a provision relating to a fine to conform to changes made by the act; requiring minimum safety standards for family day care homes; amending s. 402.3131, F.S.; removing a provision relating to a fine to

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conform to changes made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 402.3017, Florida Statutes, is renumbered as section 411.0103, Florida Statutes, and amended to read:

 $\underline{411.0103}$ $\underline{402.3017}$ Teacher Education and Compensation Helps (TEACH) scholarship program.--

- (1) The Legislature finds that the level of early child care teacher education and training is a key predictor for determining program quality. The Legislature also finds that low wages for child care workers prevent many from obtaining increased training and education and contribute to high turnover rates. The Legislature therefore intends to help fund a program which links teacher training and education to compensation and commitment to the field of early childhood education.
- of Children and Family Services is authorized to contract for the administration of the Teacher Education and Compensation Helps (TEACH) scholarship program, which provides educational scholarships to caregivers and administrators of early childhood programs, family day care homes, and large family child care homes.
- (3) The Agency for Workforce Innovation department shall adopt rules under ss. 120.536(1) and 120.54 as necessary to administer implement this section.

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(4) For the 2005-2006-fiscal year only, the Agency for Workforce Innovation shall administer this section. This subsection expires July 1, 2006.

- Section 2. Subsections (3) and (4) are added to section 402.281, Florida Statutes, to read:
 - 402.281 Gold Seal Quality Care program. --

- (3) In order for a child care provider to obtain and maintain Gold Seal Quality Care designation, a child care facility, large family child care home, or family day care home must meet the following additional criteria:
- (a) A child care provider must not have had any Class 1 deficiencies, as defined by rule, within the 2 years preceding application for Gold Seal Quality Care designation. The commission of a Class 1 violation is grounds for the termination of Gold Seal Quality Care designation. Gold Seal Quality Care designation may not be restored until the provider has had no Class 1 violations for 2 consecutive years.
- (b) A child care provider must not have had three or more Class 2 deficiencies, as defined by rule, within the 2 years preceding application for Gold Seal Quality Care designation.

 The commission of three or more Class 2 violations within a 2-year period shall be grounds for termination of Gold Seal Quality Care designation may not be restored until the provider has had no Class 2 violations for 1 year.
- (c) A child care provider must not have been cited for the same Class 3 violation, as defined by rule, three or more times within the 2 consecutive years preceding application for Gold

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Seal Quality Care designation. The commission of the same Class 3 violation three or more times during a 2-year period is grounds for termination of Gold Seal Quality Care designation.

Gold Seal Quality Care designation may not be restored until the provider has not committed the same Class 3 violation for 1 year.

(4) The Department of Children and Family Services may adopt rules under ss. 120.536(1) and 120.54 that provide criteria and procedures for reviewing and approving accrediting agencies for participation in the Gold Seal Quality Care program, conferring and revoking Gold Seal Quality Care designation, and classifying violations.

Section 3. Subsection (13) of section 402.302, Florida Statutes, is amended to read:

402.302 Definitions.--

(13) "Screening" means the act of assessing the background of child care personnel and volunteers and includes, but is not limited to, employment history checks, local criminal records checks through local law enforcement agencies, fingerprinting for all purposes and checks in this subsection, statewide criminal records checks through the Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation; except that screening for volunteers included under the definition of personnel includes only local criminal records checks through local law enforcement agencies for current residence and residence immediately prior to employment as a volunteer, if different, and statewide

criminal records correspondence checks through the Department of
Law Enforcement.

Section 4. Section 402.309, Florida Statutes, is amended to read:

402.309 Provisional license or registration. --

- (1) The local licensing agency or the department, whichever is authorized to license child care facilities in a county, may issue a provisional license for child care facilities, family day care homes, or large family child care homes, or a provisional registration for family day care homes to applicants for an initial a license or registration or to licensees or registrants seeking a renewal who are unable to meet conform to all the standards provided for in ss. 402.301-402.319.
- (2) A No provisional license or registration may not be issued unless the operator or owner makes adequate provisions for the health and safety of the child. A provisional license may be issued for a child care facility if all of the screening materials have been timely submitted.; however, A provisional license or registration may not be issued unless the child care facility, family day care home, or large family child care home is in compliance with the requirements for screening of child care personnel in ss. 402.305, and 402.3055, 402.313, and 402.3131, respectively.
- (3) The provisional license <u>or registration may not shall</u>

 <u>in no event</u> be issued for a period <u>that exceeds in excess of 6</u>

 months; however, it may be renewed one time for a period <u>that</u>

 <u>may not exceed in excess of 6</u> months under unusual circumstances

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beyond the control of the applicant.

- (4) The provisional license <u>or registration</u> may be suspended <u>or revoked</u> if periodic inspection <u>or review made</u> by the local licensing agency or the department indicates that insufficient progress has been made toward compliance.
- (5) The department shall adopt rules specifying the conditions and procedures under which a provisional license or registration may be issued, suspended, or revoked.
- Section 5. Section 402.310, Florida Statutes, is amended to read:
- 402.310 Disciplinary actions; hearings upon denial, suspension, or revocation of license or registration; administrative fines.--
- (1)(a) The department or local licensing agency may administer any of the following disciplinary sanctions for a violation of any provision of ss. 402.301-402.319 or rules adopted thereunder: deny, suspend, or revoke a license or
- 1. Impose an administrative fine not to exceed \$100 per violation, per day, for the violation of any provision of ss.

 402.301 402.319 or rules adopted thereunder. However, if where the violation could or does cause death or serious harm, the department or local licensing agency may impose an administrative fine, not to exceed \$500 per violation per day in addition to or in lieu of any other disciplinary action imposed pursuant to this section.
 - 2. Deny, suspend, or revoke a license or registration.

(b) In determining the appropriate disciplinary action to be taken for a violation as provided in paragraph (a), the following factors shall be considered:

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- 1. The severity of the violation, including the probability that death or serious harm to the health or safety of any person will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of ss. 402.301-402.319 have been violated.
- 2. Actions taken by the licensee <u>or registrant</u> to correct the violation or to remedy complaints.
 - 3. Any previous violations of the licensee or registrant.
- When the department has reasonable cause to believe that grounds exist for the denial, suspension, or revocation of a license or registration or the imposition of an administrative fine exist, it shall determine the matter in accordance with procedures prescribed in chapter 120. When the local licensing agency has reasonable cause to believe that grounds exist for the denial, suspension, or revocation of a license or registration or imposition of an administrative fine exist, it shall notify the applicant, registrant, or licensee in writing, stating the grounds upon which the license or registration is being denied, suspended, or revoked or an administrative fine is being imposed. If the applicant, registrant, or licensee makes no written request for a hearing to the local licensing agency within 15 days from receipt of such notice, the license or registration shall be deemed denied, suspended, or revoked or an administrative fine shall be imposed.

(3) If a request for a hearing is made to the local licensing agency, a hearing shall be held within 30 days and shall be conducted by an individual designated by the county commission.

- (4) An applicant, registrant, or licensee shall have the right to appeal a decision of the local licensing agency to a representative of the department. Any required hearing shall be held in the county in which the child care facility, family day care home, or large family child care home is being operated or is to be established. The hearing shall be conducted in accordance with the provisions of chapter 120.
- Section 6. Paragraphs (b), (c), and (d) of subsection (1) and subsection (13) of section 402.313, Florida Statutes, are amended to read:
 - 402.313 Family day care homes. --

- (1) Family day care homes shall be licensed under this act if they are presently being licensed under an existing county licensing ordinance, if they are participating in the subsidized child care program, or if the board of county commissioners passes a resolution that family day care homes be licensed. If no county authority exists for the licensing of a family day care home, the department shall have the authority to license family day care homes under contract for the purchase-of-service system in the subsidized child care program.
- (b) The department or local licensing agency may impose an administrative fine, not to exceed \$100, for failure to comply with licensure or registration requirements.

(b)(e) A family day care home not participating in the subsidized child care program may volunteer to be licensed under the provisions of this act.

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- (c) (d) The department may provide technical assistance to counties and family day care home providers to enable counties and family day care providers to achieve compliance with family day care homes standards.
- (13) The department shall, by rule, establish minimum standards for family day care homes that are required to be licensed by county licensing ordinance or county licensing resolution or that voluntarily choose to be licensed. The standards should include requirements for staffing, training, maintenance of immunization records, minimum health and safety standards, reduced standards for the regulation of child care during evening hours by municipalities and counties, and enforcement of standards.
- Section 7. Subsection (1) of section 402.3131, Florida Statutes, is amended to read:
 - 402.3131 Large family child care homes.--
- (1) Large family child care homes shall be licensed under this section.
- (a) The department or local licensing agency may impose an administrative fine, not to exceed \$1,000, for failure to comply with licensure requirements.
- (a) (b) A licensed family day care home must first have operated for a minimum of 2 consecutive years, with an operator who has had a child development associate credential or its

equivalent for 1 year, before seeking licensure as a large family child care home.

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(b)(c) The department may provide technical assistance to counties and family day care home providers to enable the counties and providers to achieve compliance with minimum standards for large family child care homes.

Section 8. This act shall take effect July 1, 2006.

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #:

PCB FFF 06-03

Child Protective Services

SPONSOR(S): Future of Florida's Families Committee

TIED BILLS: None. IDEN./SIM. BILLS: CS/SB 1080

REFERENCE	ACTION		STAFF DIRECTOR
Orig. Comm.: Future of Florida's Families Committee		Preston Cop	Collins
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SUMMARY ANALYSIS

This bill amends chapter 39, Florida Statutes, relating to child protection, to conform to provisions of the federal Adoption and Safe Families Act (ASFA) in three major areas. These areas are reasonable efforts, case planning, and permanency.

With regard to reasonable efforts, the bill amends current law to:

- Describe when reasonable efforts are required; and
- Clarify the nature of reasonable efforts required regarding both parental and relative placements at each stage of dependency proceedings.

With regard to case planning, the bill amends current law to:

- Provide that agreeing to a case plan does not constitute an admission of wrongdoing or consent to a finding of dependency;
- Recognize the role of mediation and family conferencing in the development of case plans;
- Define "concurrent case planning" and provide direction for its use:
- Replace pre-ASFA language relating to "extending the case plan" with clear direction as to the time frames and requirements for permanency hearings;
- Clarify options available to the court when it becomes clear that a case plan cannot be completed within the first 12 months that a child is in care;
- Provide new emphasis on current language that "time is of the essence" in case planning by placing that language more prominently in the statute; and
- Clarify the considerations and the process to be used in amending a case plan.

With regard to **permanency**, the bill amends current law to:

- Define "permanency hearings," "permanency plan," and "permanency goal," and
- Conform the permanency options under Florida law to those contained in federal law.

There is no anticipated fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The Department of Children and Family Services is required to adopt

- Make available to all physical custodians and family services counselors the information required by s. 39.6012(2) and for ensuring that this information follows the child until permanency has been achieved; and
- Ensure that the federal Indian Child Welfare Act and the Multi-Ethnic Placement Act of 1994 are implemented.

Empower families - The bill will reduce delays in achieving permanency for children and includes families to a greater degree in the case planning process.

B. EFFECT OF PROPOSED CHANGES:

Background

Florida laws relating to child welfare issues were enacted long before federal intervention. The responsibility and authority to intervene in situations where a child is or appears to be in need of protection as a result of child abuse or neglect has traditionally been at the state rather than federal level. However, beginning with the passage of the Child Abuse Prevention and Treatment Act (CAPTA) in 1974, Congress has enacted a number of laws having a significant effect on state child protection and child welfare services.2

The major federal laws impacting Florida's child protection system, listed in order of original enactment, are: CAPTA,3 the Indian Child Welfare Act (ICWA),4 the Adoption Assistance and Child Welfare Act,5 the Family Preservation and Family Support Services Program (established as part of the Omnibus Reconciliation Act of 1993),⁶ the Multi-Ethnic Placement Act (MEPA),⁷ the Adoption and Safe Families Act (ASFA),8 the Foster Care Independence Act,9 the Child Abuse Prevention and Enforcement Act,10 the Intercountry Adoption Act, 11 the Promoting Safe and Stable Families Amendments, 12 and the Keeping Children and Families Safe Act. 13

The Adoption and Safe Families Act of 1997, which amends the 1980 Child Welfare Act, was signed into law on November 19, 1997. This law clarifies that the health and safety of children served by child welfare agencies must be the paramount concern of those agencies. It emphasizes moving children in foster care more quickly into permanent homes. 14 Its implementing regulations 15 became effective on March 27, 2000. These regulations incorporate provisions of ASFA and MEPA and amend pre-existing

¹⁵ 45 CFR ss. 1355, 1356, 1357; see also the introductory materials and comments, found at 65 FR 4020-4075. pcb03.FFF.doc

¹ National Clearinghouse on Child Abuse and Neglect Information, http://nccanch.acf.hhs.gov (August 1, 2005).

³ P.L. 93-247, amended P.L. 95-266, 98-257, 100-294, 102-295, 104-235.

⁴ P.L. 95-608.

⁵ P.L. 98-272.

⁶ P.L. 103-66.

⁷ P.L. 103-382, amended P.L. 104-188.

⁸ P.L. 105-89.

⁹ P.L. 106-169.

¹⁰ P.L. 106-177.

¹¹ P.L. 106-279.

¹² P.L. 107-133.

¹³ P.L. 108-36.

¹⁴ Adoption and Safe Families Act of 1997 (H.R. 867) National Association of Social Workers (December 1997), found at http://www.naswdc.org/archives/advocacy/updates/1997/safeadop.htm.

regulations by adding new requirements for state compliance with Titles IV-B and IV-E of the Social Security Act. 16

State and local child protection agencies that accept federal funds pursuant to Titles IV-B and IV-E of the Social Security Act are required to follow ASFA and its regulations. In FY 2004-2005, the last year for which figures are available, Florida received \$29,873,959 in federal funds pursuant to Title IV-B and \$190,309,299 in federal funds pursuant to Title IV-E of the Social Security Act. In that year, these sums amounted to 23.61 percent of the total budget for Florida's child welfare programs, a percentage which remains fairly consistent.¹⁷

As a prerequisite to accepting federal funding through Titles IV-B and IV-E of the Social Security Act, states were required to amend state legislation to bring it into compliance with ASFA. However, the short deadlines for compliance 18 required states to draft legislation quickly, increasing the likelihood that inconsistencies would remain between state law and ASFA requirements. Further, since the required date for drafting statutory changes was earlier than the date of the issuance of the final ASFA regulations (January 25, 2000), the likelihood of inconsistencies between state and federal law was increased even further.

During the 1998 session, the Florida Legislature enacted significant changes to Florida's child protection statute, in part with the goal of bringing state law into compliance with ASFA. The ASFA-related changes included:

- Recognizing the parents' right to counsel at the shelter and subsequent hearings and the right, if indigent, to appointed counsel;
- Providing for access by the Department of Children and Families (DCF or the department) to federal and state parent locator services for diligent search activities;
- Increasing requirements for documentation in cases where the case plan goal is not reunification;
- Reducing the time period from 18 to 12 months for judicial review of permanency options for a child;
- Requiring judicial reviews for all children in out-of-home care every six months; and
- Authorizing but not requiring the use of concurrent case planning. Concurrent case planning is the practice of establishing a permanency goal in a case plan which uses reasonable efforts to reunify the child with the parent, while at the same time establishing an alternative or back-up permanency plan to be implemented if children cannot safely return to their biological parents.²⁰ If concurrent case planning is not used, the alternative goal is explored only after the court determines that reunification is no longer a viable permanency option for the child, a process that almost inevitably significantly delays permanence for the child.

The remaining major provisions of ASFA which must be reflected in state law may be described as:

- "Reasonable efforts" ASFA redefines "reasonable efforts" to emphasize children's health and safety. It describes at least three circumstances when "reasonable efforts" are required by the state agency in child welfare cases: to prevent foster care placement, to finalize a permanency plan for each child, and to reunify families if such placement has occurred. It also describes situations when reasonable efforts to preserve families are not required;
- Case plan and review requirements ASFA requires that the case plan and associated reviews specifically address child safety and permanency; and

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Making Sense of the ASFA Regulations, Baker, Debra Ratterman et al, American Bar Association (2001), p. 4.
 Information obtained from O. Roy Hutcheson, Jr., Chief, Federal Program Eligibility-Revenue Maximization Unit, Child Welfare/CBC Program Office, DCF, August 15, 2005.

¹⁸ P.L. 105-89, s. 103(a)(3).

¹⁹ Ch. 98-403, L.O.F.

²⁰ Tools for Permanency: Tool #1: Concurrent Permanency Planning, National Resource Center for Foster Care and Permanency Planning, Hunter College School of Social Work of the City University of New York, found at www.hunter.curry.edu/socwork/nrcfcpp (July 2005).

Increased emphasis on timely permanency decision making, including shorter time periods (shortened from 18 months to 12 months) to finalize a permanency plan, a new requirement for permanency hearings, and a limitation on the time period for reunification services to families.

These three major provisions of ASFA were, for the most part, not addressed in the 1998 legislation. As a result, Florida law on these issues contains pre-ASFA provisions which are not consistent with current federal law.

Occurring simultaneously with the implementation of the ASFA-related changes, Florida's child welfare system has undertaken the transition from a traditional agency-driven structure to one in which child welfare services are delivered by community-based care lead agencies. These community-based care lead agencies are independent, non-profit organizations under contract with DCF to provide child welfare services. There are currently 22 lead agencies, each with several subcontracting agencies. This decentralization of service delivery has created additional opportunities for confusion related to the requirements of federal and state law in this area.

When state and federal laws are not consistent, the Supremacy Clause of the U.S. Constitution requires state courts to apply federal law.²² However, since most practitioners and decision makers in the Florida child welfare system are more familiar with Florida law than with federal law, the inconsistencies may not be recognized at the court or agency level and may result in failure to comply with federal laws that are detected when state practices are reviewed as part of the federal Child and Family Services Review (CFSR) process. Such failures may lead to the loss of significant federal financial support for Florida's child welfare program.

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The proposed committee bill does the following:

- Creates new definitions of the terms "concurrent planning," "family team conference," "permanency goal," "permanency plan," "permanent guardian," and "permanent guardianship of a dependent child." Current definitions are also amended and or deleted to reflect provisions of the bill.
- Removes current provisions relating to time limitations in dependency cases and creates a new section that provides for added emphasis on that fact that time is of the essence for establishing permanency for a child in the dependency system and outlines the time limitations applicable to dependency cases.
- Clarifies that the provisions of chapter 39, F.S., do not supersede the requirements of the federal Indian Child Welfare Act, the Multi-Ethnic Placement Act of 1994, or their implementing regulations and encourages DCF to enter into agreements with recognized American Indian tribes.
- Provides background screening requirements for the out-of-home placement of children and the process for seeking an exemption from disqualification for placement.
- Clarifies the duty to report to the central abuse hotline the reasonable suspicion that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care and clarifies the authority of the hotline to accept such reports. Adds a child who is known or suspected to be a victim of human trafficking to the list of offenses defined as "criminal conduct."

²² Hilton v. South Carolina Public Railways Commission, 502 U.S. 197(1991); Mississippi Power & Light Co. v. Mississippi, 487 U.S. 354 (1988); Kalb v. Feuerstein, 308 U.S. 433 (1940).

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²¹ See *Congress Passes Major new Adoption/Foster Care Reform Law*, ABA Center on Children and the Law, found at http://www.abanet.org/child/adofost.html.

- Allows previous reports of child abuse, neglect, or abandonment to be considered in
 determining whether a child is safe as well as the existing risk to a child at any stage of a child
 protection proceeding; requires parents or legal custodians to notify the protective investigator
 of any change in the location or residence of a child while an investigation is open and clarifies
 that this notification can serve as the basis for a missing child report to law enforcement.
- Authorizes child protection teams within the Department of Health to provide assessment and support in any report alleging sexual abuse of a child.
- Requires that the order at the shelter hearing include a description of the specific services which could prevent or eliminate the need for the removal of a child and the date the services are expected to become available or an explanation of why the services are not available. The bill requires that the order contain a notice to all parties of the date, time, and place of the case plan conference, family team conference, or mediation that will be used to develop the case plan. It also requires the court to inquire, and the parents to provide, the names and location information of all relatives whom they wish to be considered for placement of the child. It requires the court to advise the parents that their parental rights may be terminated if the child is not returned to their custody within 12 months.
- Clarifies that children who are in a permanent guardianship with a relative are eligible for the relative caregiver program.
- Requires that the court consider the continuity of the child's placement in the same out-of-home
 residence as a factor in determining the best interests of a child when a petition is filed to
 change the custody of a child in an out-of-home placement.
- Creates new sections of chapter 39, F.S., describing the procedural and other requirements for developing a case plan, describing the tasks and services that must be addressed in a case plan and describing the process and grounds for case plan amendments.
- Clarifies that time is of the essence for permanency of children in the dependency system and provides direction to the court in conducting permanency hearings for children.
- Specifies the provisions of the permanency options of permanent guardianship of a dependent child, permanent placement with a fit and willing relative, and another planned permanent living arrangement, which conforms the permanency options for dependent children with the options described in federal law.
- Requires that judicial review social studies reports provided periodically to the court include copies of the child's current health and education records as identified in s. 39.6012, F.S., requires that the child's permanency goal be reviewed at the judicial review held no later than six months after the child is placed in shelter care, and requires an evaluation at that time of the need for concurrent planning for the child.
- Clarifies the circumstances under which DCF is required to file or be excused from filing a
 termination of parental rights petition at the time of the 12-month judicial review and provides
 authority for any party to seek judicial review of DCF's decision not to file this petition based on
 the enumerated grounds.
- Clarifies that a material breach of the case plan is grounds for filing a termination of parental
 rights petition before the expiration of the time period for compliance with the case plan if the
 court finds by clear and convincing evidence that the parent is unlikely or unable to
 substantially comply with the case plan before the time expires to comply with it.

- Provides that, in determining the manifest best interests of a child in the context of a
 termination of parental rights proceeding, the availability of a non-adoptive relative placement
 may not be considered as a factor weighing against the termination of parental rights and that,
 if a child has been in a stable or pre-adoptive placement for not less than six months, the
 availability of a different placement, including a placement with relative, may not be considered
 as a ground to deny the petition for termination of parental rights.
- Repeals sections 39.601, 39.622, 39.623, 39.624, and 435.045, Florida Statutes. These
 sections are related to case planning when parents do not participate and the child is in out-ofhome care, long-term custody, long-term licensed custody, independent living, and
 employment screening requirements for placement of dependent children, respectively.

C. SECTION DIRECTORY:

- **Section 1.** Amends s. 39.01, F.S., relating to definitions.
- **Section 2.** Amends s. 39.0121, F.S., relating to rulemaking authority.
- **Section 3.** Amends s. 39.013, F.S., related to procedures and right to counsel for parents in dependency proceedings.
- **Section 4.** Creates s. 39.0136, F.S., relating to time limitations and continuances.
- Section 5. Creates s. 39.0137, F.S., relating to federal law and rulemaking authority.
- **Section 6.** Creates s. 39.0138, F.S., relating to requirements for placement of children and exemptions from disqualification.
- **Section 7.** Amends s. 39.201, F.S., relating to the central abuse hotline and mandatory reports of abuse, neglect, abandonment, and death.
- **Section 8.** Amends s. 39.301, F.S., relating to child protective investigations.
- **Section 9.** Amends s. 39.303, F.S., relating to child protection teams.
- **Section 10.** Amends s. 39.402, F.S., relating to placement in a shelter.
- **Section 11.** Amends s. 39.507, F.S., relating to adjudicatory hearings and orders of adjudication.
- Section 12. Amends s. 39.5085, F.S., relating to the Relative Caregiver Program.
- **Section 13.** Amends s. 39.521, F.S., relating to disposition hearings and powers of disposition.
- Section 14. Amends s. 39.522, F.S., relating to postdisposition change of custody.
- **Section 15.** Creates s. 39.6011, F.S., relating to case plan development.
- Section 16. Creates s. 39.6012, F.S., relating to case plan tasks and services to be provided.
- **Section 17.** Creates s. 39.6013, F.S., relating to amendments to a case plan.
- Section 18. Amends s. 39.603, F.S., relating to court approval of case planning.
- Section 19. Amends s. 39.621, F.S., relating to permanency determinations by the court.
- Section 20. Creates s. 39.6221, F.S., relating to the permanent guardianship of a child.

- **Section 21.** Creates s. 39.6231, F.S., relating to permanent placement of a child with a fit and willing relative.
- Section 22. Creates s. 39.6241, F.S., relating to another planned permanent living arrangement.
- Section 23. Amends s. 39.701, F.S., relating to judicial review.
- **Section 24.** Amends s. 39.703, F.S., relating to the initiation of termination of parental rights proceedings and judicial review.
- Section 25. Amends s. 39.806, F.S., relating to grounds for termination of parental rights.
- Section 26. Amends s. 39.810, F.S., relating to manifest best interest of the child.
- Section 27. Amends s. 39.811, F.S., relating to powers and orders of disposition.
- **Section 28.** Amends s. 39.0015, F.S., relating to child abuse prevention training in the district school system.
- **Section 29.** Amends 39.205, F.S., relating to penalties relating to the reporting of abuse, abandonment, or neglect.
- **Section 30.** Amends s. 39.302, F.S., relating to protective investigations of institutional child abuse, abandonment, or neglect.
- **Section 31.** Amends s. 39.802, F.S., relating to petitions for termination of parental rights.
- **Section 32.** Amends s. 39.828, relating to the appointment of a guardian advocate for drug dependent newborns.
- **Section 33.** Amends s. 63.092, F.S., relating to reports to the court of intended placement by an adoption entity, at-risk placements, and preliminary studies.
- **Section 34.** Amends s. 409.165, F.S., relating to alternative care for children.
- **Section 35.** Amends s. 419.001, F.S., relating to site selection of community residential homes.
- **Section 36.** Repeals ss. 39.601, 39.622, 39.623, 39.624, and 435.045, F.S.
- Section 37. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill removes areas of confusion that have led to delay in permanency for children. As a result, more children should achieve permanency at an earlier time, reducing the need for foster care services.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The clarifications contained in the bill will facilitate compliance with federal law and consequent funding of programs in the community-based care agencies.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Children and Family Services is required to adopt rules to:

- Make available to all physical custodians and family services counselors the information required by s. 39.6012(2) and for ensuring that this information follows the child until permanency has been achieved; and
- Ensure that the federal Indian Child Welfare Act and the Multi-Ethnic Placement Act of 1994 are implemented.
- C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

A bill to be entitled

An act relating to child protective services; amending s. 39.01, F.S.; revising definitions relating to child protective services; amending s. 39.0121, F.S.; providing rulemaking authority to the Department of Children and Family Services to provide certain information in a child's case plan to physical custodians and family services counselors under certain circumstances; amending s. 39.013, F.S.; removing provisions relating to continuances; creating s. 39.0136, F.S.; providing for time limitations and circumstances under which a continuance may be granted in child protective cases; providing exceptions; creating s. 39.0137, F.S.; providing that state laws do not supersede certain federal laws; requiring the Department of Children and Family Services to adopt rules; creating s. 39.0138, F.S.; authorizing the department to conduct criminal records checks of persons being considered as prospective foster parents; providing that a court may review the granting or denial of an exemption from disqualification to care for a dependent child; providing that a person seeking placement of a child who is disqualified bears the burden of providing evidence of rehabilitation; amending s. 39.201, F.S.; requiring that any person who knows or suspects that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care must report this information to the central abuse hotline of the Department of Children and Family Services;

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amending s. 39.301, F.S.; redefining the term "criminal conduct" to include a child who is known or suspected to be a victim of human trafficking; requiring each child protective investigator to inform the person who is the subject of a child protective investigation that he or she has a duty to report any change in the residence or location of the child to the investigator and that the duty to report continues until the investigation is closed; providing that the department may rely upon a previous report to indicate that child abuse has occurred; providing that if the child has moved to a different residence or location, a report may be filed with a law enforcement agency under certain circumstances; amending 39.303, F.S.; conforming provisions to changes made by the act; amending s. 39.402, F.S.; requiring that a shelter hearing order contain specified information relating to the availability of services to prevent removal from the home; requiring notification of certain parties regarding case plan or family team conferences or mediation; providing a timeframe for the conference or mediation; requiring a parent to provide certain information regarding relatives with whom a child may be placed under certain circumstances; providing circumstances under which parental rights may be terminated and the child's out-ofhome placement may become permanent; amending s. 39.507, F.S.; requiring the court to inquire of the parents whether the parents have relatives who might be considered as a placement for the child; directing the court to advise the parents that, if the child is not returned to

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their custody within 12 months, their parental rights may be terminated and the child's out-of-home placement may become permanent; amending s. 39.5085, F.S.; conforming provisions to changes made by the act; correcting crossreferences; amending s. 39.521, F.S.; revising the content of an order of disposition issued by the court; amending s. 39.522, F.S.; requiring the court to consider the continuity of the child's placement in the same out-ofhome residence as a factor when determining the best interest of the child in a postdisposition proceeding to modify custody; creating s. 39.6011, F.S.; providing procedures for drafting and implementing a case plan; requiring certain face-to-face meetings; specifying contents of a case plan; requiring the department to prepare a case plan for each child receiving services from the department; requiring all parties, except the child under certain circumstances, to sign the case plan; requiring the case plan to provide certain documentation when the permanency goal for the child is adoption; requiring the department to follow certain procedures; requiring the case plan to be filed with the court and copies to be provided to all parties; requiring certain information to follow a child until permanency is achieved; creating s. 39.6012, F.S.; providing for case plan tasks and services; requiring a parent to complete certain tasks in order to receive certain services; providing for the content of case plans; creating s. 39.6013, F.S.; providing for amendments to a case plan; describing the circumstances under which a case plan may

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be modified; requiring certain information to be included in amendments to a case plan; requiring copies to be distributed to specified parties; amending s. 39.603, F.S.; requiring that case plans and amendments be approved by the court and that copies of the amended plan be provided to certain parties; amending s. 39.621, F.S.; providing a legislative finding; requiring a permanency hearing to be held within a specified timeframe; specifying permanency goals; providing prehearing procedures; directing the court to make certain findings at the permanency hearing; requiring certain factors to be considered by the court in determining the permanency goal for the child; permitting parents to make a motion for reunification or increased contact under certain circumstances; creating s. 39.6221, F.S.; providing for the permanent guardianship for a dependent child; authorizing the court to consider a permanent quardian as a long-term option for a dependent child; requiring a written order; providing for the contents of the permanent guardianship order; exempting the permanent guardianship of a child from the requirements of ch. 744, F.S., under certain circumstances; providing for the court to retain jurisdiction; providing that placement in permanent guardianship does not terminate the relationship between the parent and the child; creating s. 39.6231, F.S.; providing circumstances for placement of a child with a fit and willing relative; requiring the court to specify the reasons to place a child with a relative; requiring the court to establish the relative's authority to care

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117 for the child; providing for the department to supervise the placement for a specified time period; requiring the 118 119 court to continue to conduct permanency hearings; creating 120 s. 39.6241, F.S.; authorizing the court to place a child 121 in another planned permanent living arrangement under certain circumstances; requiring the department and 122 123 guardian ad litem to provide the court with certain information regarding the needs of the child; amending s. 124 125 39.701, F.S.; requiring that a child's current health, 126 mental health, and education records be included in the 127 documentation for the judicial review report; authorizing 128 the court and citizen review panel to make certain 129 determinations; providing for amendments to a case plan; removing a provision relating to the extension of a time 130 131 limitation or the modification of terms of a case plan; 132 requiring the court to conduct a judicial review 6 months 133 after the child is placed in shelter care; amending s. 134 39.703, F.S.; providing when the department may file a 135 petition for termination of parental rights; providing circumstances under which the department may choose not to 136 137 file a petition; providing for court review of a determination by the department not to file a petition; 138 amending s. 39.806, F.S.; authorizing a material breach of 139 the case plan as a ground to terminate parental rights; 140 requiring that the department show, and the court find, 141 the material breach by clear and convincing evidence; 142 amending s. 39.810, F.S.; providing certain factors for 143 the court to consider for the best interest of the child; 144 amending ss. 39.811 and 409.165, F.S.; conforming 145

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provisions to changes made by the act; amending ss. 39.0015, 39.205, 39.302, 39.828, 63.092, and 419.001, F.S.; correcting cross-references; reenacting s. 39.802(5), F.S., relating to the filing of a petition to terminate parental rights, to incorporate the amendments made to s. 39.806, F.S., in a reference thereto; repealing ss. 39.601, 39.622, 39.623, 39.624, and 435.045, F.S., relating to case plan requirements, long-term custody of a dependent child, long-term licensed custody of a dependent child, independent living, and background screening of certain persons before a dependent child is placed in their home; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 39.01, Florida Statutes, is amended to read:

39.01 Definitions.--When used in this chapter, unless the context otherwise requires:

(1) "Abandoned" means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver responsible for the child's welfare, while being able, makes no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligations. If the efforts of the such parent or legal custodian, or caregiver primarily responsible for the child's welfare, to support and communicate with the child are, in the

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opinion of the court, only marginal efforts that do not evince a

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settled purpose to assume all parental duties, the court may declare the child to be abandoned. The term "abandoned" does not include an abandoned newborn infant as described in s. 383.50, a "child in need of services" as defined in chapter 984, or a "family in need of services" as defined in chapter 984. The incarceration of a parent, legal custodian, or caregiver responsible for a child's welfare may support a finding of abandonment.

- (2) "Abuse" means any willful act or threatened act that results in any physical, mental, or sexual injury or harm that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.
- (3) "Addictions receiving facility" means a substance abuse service provider as defined in chapter 397.
- (4) "Adjudicatory hearing" means a hearing for the court to determine whether or not the facts support the allegations stated in the petition in dependency cases or in termination of parental rights cases.
 - (5) "Adult" means any natural person other than a child.
- (6) "Adoption" means the act of creating the legal relationship between parent and child where it did not exist, thereby declaring the child to be legally the child of the adoptive parents and their heir at law, and entitled to all the rights and privileges and subject to all the obligations of a child born to the such adoptive parents in lawful wedlock.

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- (7) "Alleged juvenile sexual offender" means:
- (a) A child 12 years of age or younger who is alleged to have committed a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133; or
- (b) A child who is alleged to have committed any violation of law or delinquent act involving juvenile sexual abuse.

 "Juvenile sexual abuse" means any sexual behavior which occurs without consent, without equality, or as a result of coercion.

 For purposes of this paragraph, the following definitions apply:
- 1. "Coercion" means the exploitation of authority or the use of bribes, threats of force, or intimidation to gain cooperation or compliance.
- 2. "Equality" means two participants operating with the same level of power in a relationship, neither being controlled nor coerced by the other.
- 3. "Consent" means an agreement, including all of the following:
- a. Understanding what is proposed based on age, maturity, developmental level, functioning, and experience.
- b. Knowledge of societal standards for what is being proposed.
 - c. Awareness of potential consequences and alternatives.
- d. Assumption that agreement or disagreement will be accepted equally.
 - e. Voluntary decision.
 - f. Mental competence.

Juvenile sexual offender behavior ranges from noncontact sexual behavior such as making obscene phone calls, exhibitionism,

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voyeurism, and the showing or taking of lewd photographs to varying degrees of direct sexual contact, such as frottage, fondling, digital penetration, rape, fellatio, sodomy, and various other sexually aggressive acts.

- (8) "Arbitration" means a process whereby a neutral third person or panel, called an arbitrator or an arbitration panel, considers the facts and arguments presented by the parties and renders a decision which may be binding or nonbinding.
- (9) "Authorized agent" or "designee" of the department means an employee, volunteer, or other person or agency determined by the state to be eligible for state-funded risk management coverage, which that is assigned or designated by the department to perform duties or exercise powers under pursuant to this chapter.
- (10) "Caregiver" means the parent, legal custodian, permanent guardian, adult household member, or other person responsible for a child's welfare as defined in subsection (46)
- (11) "Case plan" or "plan" means a document, as described in $\underline{s.\ 39.6011}$ $\underline{s.\ 39.601}$, prepared by the department with input from all parties. The case plan follows the child from the provision of voluntary services through any dependency, foster care, or termination of parental rights proceeding or related activity or process.
- (12) "Child" or "youth" means any unmarried person under the age of 18 years who has not been emancipated by order of the court.
- (13) "Child protection team" means a team of professionals established by the Department of Health to receive referrals from

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the protective investigators and protective supervision staff of the department and to provide specialized and supportive services to the program in processing child abuse, abandonment, or neglect cases. A child protection team shall provide consultation to other programs of the department and other persons regarding child abuse, abandonment, or neglect cases.

- (14) "Child who is found to be dependent" means a child who, pursuant to this chapter, is found by the court:
- (a) To have been abandoned, abused, or neglected by the child's parent or parents or legal custodians;
- (b) To have been surrendered to the department, the former Department of Health and Rehabilitative Services, or a licensed child-placing agency for purpose of adoption;
- (c) To have been voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, an adult relative, the department, or the former Department of Health and Rehabilitative Services, after which placement, under the requirements of this chapter, a case plan has expired and the parent or parents or legal custodians have failed to substantially comply with the requirements of the plan;
- (d) To have been voluntarily placed with a licensed childplacing agency for the purposes of subsequent adoption, and a parent or parents have signed a consent pursuant to the Florida Rules of Juvenile Procedure;
- (e) To have no parent or legal custodians capable of providing supervision and care; or
- (f) To be at substantial risk of imminent abuse, abandonment, or neglect by the parent or parents or legal custodians.

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- (15) "Child support" means a court-ordered obligation, enforced under chapter 61 and ss. 409.2551-409.2597, for monetary support for the care, maintenance, training, and education of a child.
- (16) "Circuit" means any of the 20 judicial circuits as set forth in s. 26.021.
- (17) "Comprehensive assessment" or "assessment" means the gathering of information for the evaluation of a child's and caregiver's physical, psychiatric, psychological or mental health, educational, vocational, and social condition and family environment as they relate to the child's and caregiver's need for rehabilitative and treatment services, including substance abuse treatment services, mental health services, developmental services, literacy services, medical services, family services, and other specialized services, as appropriate.
- (18) "Concurrent planning" means establishing a permanency goal in a case plan that uses reasonable efforts to reunify the child with the parent, while at the same time establishing another goal that must be one of the following options:
- (a) Adoption when a petition for termination of parental rights has been filed or will be filed;
- (b) Permanent guardianship of a dependent child under s. 39.6221;
- (c) Permanent placement with a fit and willing relative under s. 39.6231; or
- (d) Placement in another planned permanent living arrangement under s. 39.6241.
- (19)(18) "Court," unless otherwise expressly stated, means the circuit court assigned to exercise jurisdiction under this

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chapter.

 $\underline{\text{(20)}}$ "Department" means the Department of Children and Family Services.

(21)(20) "Diligent efforts by a parent" means a course of conduct which results in a reduction in risk to the child in the child's home that would allow the child to be safely placed permanently back in the home as set forth in the case plan.

(22) (21) "Diligent efforts of social service agency" means reasonable efforts to provide social services or reunification services made by any social service agency that is a party to a case plan.

(23)(22) "Diligent search" means the efforts of a social service agency to locate a parent or prospective parent whose identity or location is unknown, initiated as soon as the social service agency is made aware of the existence of such parent, with the search progress reported at each court hearing until the parent is either identified and located or the court excuses further search.

(24) "Disposition hearing" means a hearing in which the court determines the most appropriate protections, services, and placement for the child in dependency cases.

(25) "District" means any one of the 15 service districts of the department established pursuant to s. 20.19.

(26)(25) "District administrator" means the chief operating officer of each service district of the department as defined in s. 20.19(5) and, where appropriate, includes any district administrator whose service district falls within the boundaries of a judicial circuit.

(27) (26) "Expedited termination of parental rights" means

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proceedings wherein a case plan with the goal of reunification is not being offered.

- (28)(27) "False report" means a report of abuse, neglect, or abandonment of a child to the central abuse hotline, which report is maliciously made for the purpose of:
 - (a) Harassing, embarrassing, or harming another person;
 - (b) Personal financial gain for the reporting person;
 - (c) Acquiring custody of a child; or
- (d) Personal benefit for the reporting person in any other private dispute involving a child.

The term "false report" does not include a report of abuse, neglect, or abandonment of a child made in good faith to the central abuse hotline.

- (29)(28) "Family" means a collective body of persons, consisting of a child and a parent, legal custodian, or adult relative, in which:
 - (a) The persons reside in the same house or living unit; or
- (b) The parent, legal custodian, or adult relative has a legal responsibility by blood, marriage, or court order to support or care for the child.
- (30) "Family team conference" means a process for family-focused intervention facilitated by professional staff which is designed to develop a plan for the care, safety, and well-being of a child and the child's family.
- (31)(29) "Foster care" means care provided a child in a foster family or boarding home, group home, agency boarding home, child care institution, or any combination thereof.
 - (32)(30) "Harm" to a child's health or welfare can occur

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- (a) Inflicts or allows to be inflicted upon the child physical, mental, or emotional injury. In determining whether harm has occurred, the following factors must be considered in evaluating any physical, mental, or emotional injury to a child: the age of the child; any prior history of injuries to the child; the location of the injury on the body of the child; the multiplicity of the injury; and the type of trauma inflicted. Such injury includes, but is not limited to:
- 1. Willful acts that produce the following specific injuries:
 - a. Sprains, dislocations, or cartilage damage.
 - b. Bone or skull fractures.
 - c. Brain or spinal cord damage.
- d. Intracranial hemorrhage or injury to other internal organs.
 - e. Asphyxiation, suffocation, or drowning.
 - f. Injury resulting from the use of a deadly weapon.
 - g. Burns or scalding.
 - h. Cuts, lacerations, punctures, or bites.
 - i. Permanent or temporary disfigurement.
- j. Permanent or temporary loss or impairment of a body part or function.

As used in this subparagraph, the term "willful" refers to the intent to perform an action, not to the intent to achieve a result or to cause an injury.

2. Purposely giving a child poison, alcohol, drugs, or other substances that substantially affect the child's behavior,

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motor coordination, or judgment or that result in sickness or internal injury. For the purposes of this subparagraph, the term "drugs" means prescription drugs not prescribed for the child or not administered as prescribed, and controlled substances as outlined in Schedule I or Schedule II of s. 893.03.

- 3. Leaving a child without adult supervision or arrangement appropriate for the child's age or mental or physical condition, so that the child is unable to care for the child's own needs or another's basic needs or is unable to exercise good judgment in responding to any kind of physical or emotional crisis.
- 4. Inappropriate or excessively harsh disciplinary action that is likely to result in physical injury, mental injury as defined in this section, or emotional injury. The significance of any injury must be evaluated in light of the following factors: the age of the child; any prior history of injuries to the child; the location of the injury on the body of the child; the multiplicity of the injury; and the type of trauma inflicted. Corporal discipline may be considered excessive or abusive when it results in any of the following or other similar injuries:
 - a. Sprains, dislocations, or cartilage damage.
 - b. Bone or skull fractures.
 - c. Brain or spinal cord damage.
- d. Intracranial hemorrhage or injury to other internal organs.
 - e. Asphyxiation, suffocation, or drowning.
 - f. Injury resulting from the use of a deadly weapon.
 - g. Burns or scalding.
- h. Cuts, lacerations, punctures, or bites.
 - i. Permanent or temporary disfigurement.

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- j. Permanent or temporary loss or impairment of a body part or function.
 - k. Significant bruises or welts.

- (b) Commits, or allows to be committed, sexual battery, as defined in chapter 794, or lewd or lascivious acts, as defined in chapter 800, against the child.
- (c) Allows, encourages, or forces the sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to:
 - 1. Solicit for or engage in prostitution; or
- 2. Engage in a sexual performance, as defined by chapter 827.
- (d) Exploits a child, or allows a child to be exploited, as provided in s. 450.151.
- (e) Abandons the child. Within the context of the definition of "harm," the term "abandons the child" means that the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the person responsible for the child's welfare, while being able, makes no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligation. If the efforts of the such a parent or legal custodian or person primarily responsible for the child's welfare to support and communicate with the child are only marginal efforts that do not evince a settled purpose to assume all parental duties, the child may be determined to have been abandoned. The term "abandoned" does not include an abandoned newborn infant as described in s. 383.50.
 - (f) Neglects the child. Within the context of the

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definition of "harm," the term "neglects the child" means that the parent or other person responsible for the child's welfare fails to supply the child with adequate food, clothing, shelter, or health care, although financially able to do so or although offered financial or other means to do so. However, a parent or legal custodian who, by reason of the legitimate practice of religious beliefs, does not provide specified medical treatment for a child may not be considered abusive or neglectful for that reason alone, but such an exception does not:

- 1. Eliminate the requirement that such a case be reported to the department;
- 2. Prevent the department from investigating such a case; or
- 3. Preclude a court from ordering, when the health of the child requires it, the provision of medical services by a physician, as defined in this section, or treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization.
- (g) Exposes a child to a controlled substance or alcohol. Exposure to a controlled substance or alcohol is established by:
- 1. Use by the mother of a controlled substance or alcohol during pregnancy when the child, at birth, is demonstrably adversely affected by such usage; or
- 2. Continued chronic and severe use of a controlled substance or alcohol by a parent when the child is demonstrably adversely affected by such usage.

As used in this paragraph, the term "controlled substance" means

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prescription drugs not prescribed for the parent or not administered as prescribed and controlled substances as outlined in Schedule I or Schedule II of s. 893.03.

- (h) Uses mechanical devices, unreasonable restraints, or extended periods of isolation to control a child.
- (i) Engages in violent behavior that demonstrates a wanton disregard for the presence of a child and could reasonably result in serious injury to the child.
- (j) Negligently fails to protect a child in his or her care from inflicted physical, mental, or sexual injury caused by the acts of another.
- (k) Has allowed a child's sibling to die as a result of abuse, abandonment, or neglect.
- (1) Makes the child unavailable for the purpose of impeding or avoiding a protective investigation unless the court determines that the parent, legal custodian, or caregiver was fleeing from a situation involving domestic violence.
- (33)(31) "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect in which the person allegedly perpetrating the child abuse or neglect is an employee of a private school, public or private day care center, residential home, institution, facility, or agency or any other person at such institution responsible for the child's care.
- (34) (32) "Judge" means the circuit judge exercising jurisdiction pursuant to this chapter.
- $\underline{(35)}$ "Legal custody" means a legal status created by \underline{a} court order or letter of guardianship which vests in a custodian of the person or guardian, whether an agency or an individual,

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the right to have physical custody of the child and the right and duty to protect, <u>nurture</u>, <u>guide</u> train, and discipline the child and to provide him or her with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care. The legal custodian is the person or entity in whom the legal right to custody is vested. For purposes of this chapter only, when the phrase "parent or legal custodian" is used, it refers to rights or responsibilities of the parent and, only if there is no living parent with intact parental rights, to the rights or responsibilities of the legal custodian who has assumed the role of the parent.

- (34) "Legal guardianship" means a judicially created relationship between the child and caregiver which is intended to be permanent and self-sustaining and is provided pursuant to the procedures in chapter 744.
- (36)(35) "Licensed child-caring agency" means a person, society, association, or agency licensed by the department to care for, receive, and board children.
- (37)(36) "Licensed child-placing agency" means a person, society, association, or institution licensed by the department to care for, receive, or board children and to place children in a licensed child-caring institution or a foster or adoptive home.
- (38)(37) "Licensed health care professional" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a nurse licensed under part I of chapter 464, a physician assistant licensed under chapter 458 or chapter 459, or a dentist licensed under chapter 466.
- (39)(38) "Likely to injure oneself" means that, as evidenced by violent or other actively self-destructive behavior,

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it is more likely than not that within a 24-hour period the child will attempt to commit suicide or inflict serious bodily harm on himself or herself.

- (40)(39) "Likely to injure others" means that it is more likely than not that within a 24-hour period the child will inflict serious and unjustified bodily harm on another person.
- (40) "Long-term relative custodian" means an adult relative who is a party to a long-term custodial relationship created by a court order pursuant to this chapter.
- (41) "Long-term custody" or "long-term custodial relationship" means the relationship that a juvenile court order creates between a child and an adult relative of the child or other legal custodian approved by the court when the child cannot be placed in the custody of a parent and adoption is not deemed to be in the best interest of the child. Long-term custody confers upon the relative or other legal custodian, other than the department, the right to physical custody of the child, a right which will not be disturbed by the court except upon request of the legal custodian or upon a showing that the best interest of the child necessitates a change of custody for the child. A relative or other legal custodian who has been designated as a long-term custodian shall have all of the rights and duties of a parent, including, but not limited to, the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, and education, and ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by the court order establishing the long term custodial relationship.

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(41) (42) "Mediation" means a process whereby a neutral

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third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem solving, and exploring settlement alternatives.

- (42)(43) "Mental injury" means an injury to the intellectual or psychological capacity of a child as evidenced by a discernible and substantial impairment in the ability to function within the normal range of performance and behavior.
- (43)(44) "Necessary medical treatment" means care which is necessary within a reasonable degree of medical certainty to prevent the deterioration of a child's condition or to alleviate immediate pain of a child.
- (44)(45) "Neglect" occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may shall not, for that reason alone, be considered a negligent parent or legal custodian; however, such an exception does not

preclude a court from ordering the following services to be provided, when the health of the child so requires:

- (a) Medical services from a licensed physician, dentist, optometrist, podiatric physician, or other qualified health care provider; or
- (b) Treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization.

Neglect of a child includes acts or omissions.

(45) "Next of kin" means an adult relative of a child who is the child's brother, sister, grandparent, aunt, uncle, or first cousin.

(46)(47) "Other person responsible for a child's welfare" includes the child's legal guardian, legal custodian, or foster parent; an employee of a private school, public or private child day care center, residential home, institution, facility, or agency; or any other person legally responsible for the child's welfare in a residential setting; and also includes an adult sitter or relative entrusted with a child's care. For the purpose of departmental investigative jurisdiction, this definition does not include law enforcement officers, or employees of municipal or county detention facilities or the Department of Corrections, while acting in an official capacity.

(47) "Out-of-home" means a placement outside of the home of the parents or a parent.

(48) (49) "Parent" means a woman who gives birth to a child and a man who was married to the mother at the time the child was

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conceived or born, who has been determined by a court to be the father of the child, who has filed an affidavit of paternity under s. 382.013(2), or who has claimed to be the father of the child and has provided, or has attempted to provide, the child, or the mother during her pregnancy, with support in a repetitive, customary manner whose consent to the adoption of the child would be required under s. 63.062(1). If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of s. 39.503(1) or this subsection s. 63.062(1). For purposes of this chapter only, when the phrase "parent or legal custodian" is used, it refers to rights or responsibilities of the parent and, only if there is no living parent with intact parental rights, to the rights or responsibilities of the legal custodian who has assumed the role of the parent.

(49)(50) "Participant," for purposes of a shelter proceeding, dependency proceeding, or termination of parental rights proceeding, means any person who is not a party but who should receive notice of hearings involving the child, including the actual custodian of the child, the foster parents or the legal custodian of the child, identified prospective parents, grandparents entitled to priority for adoption consideration under s. 63.0425, actual custodians of the child, and any other person whose participation may be in the best interest of the child. A community-based agency under contract with the department to provide protective services may be designated as a participant at the discretion of the court. Participants may be

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granted leave by the court to be heard without the necessity of filing a motion to intervene.

- (50)(51) "Party" means the parent or parents of the child, the petitioner, the department, the guardian ad litem or the representative of the guardian ad litem program when the program has been appointed, and the child. The presence of the child may be excused by order of the court when presence would not be in the child's best interest. Notice to the child may be excused by order of the court when the age, capacity, or other condition of the child is such that the notice would be meaningless or detrimental to the child.
- (51) "Permanency goal" means the living arrangement identified for the child to return to or identified as the permanent living arrangement of the child. Permanency goals applicable under this chapter are:
 - (a) Reunification;

- (b) Adoption when a petition for termination of parental rights has been or will be filed;
- (c) Permanent guardianship of a dependent child under s. 39.6221;
- (d) Permanent placement with a fit and willing relative under s. 39.6231; or
- (e) Placement in another planned permanent living arrangement under s. 39.6241.

The permanency goal is also the case plan goal. If concurrent case planning is being used, reunification may be pursued at the same time that another permanency goal is pursued.

(52) "Permanency plan" means the plan that establishes the

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placement intended to serve as the child's permanent home.

- (53) "Permanent guardian" means the relative or other adult in a permanent guardianship of a dependent child under s. 39.6221.
- (54) "Permanent guardianship of a dependent child" means a legal relationship that a court creates under s. 39.6221 between a child and a relative or other adult approved by the court which is intended to be permanent and self-sustaining through the transfer of parental rights with respect to the child relating to protection, education, care, and control of the child, custody of the child, and decisionmaking on behalf of the child.
- (55) (52) "Physical injury" means death, permanent or temporary disfigurement, or impairment of any bodily part.
- (56) (53) "Physician" means any licensed physician, dentist, podiatric physician, or optometrist and includes any intern or resident.
- (57)(54) "Preliminary screening" means the gathering of preliminary information to be used in determining a child's need for further evaluation or assessment or for referral for other substance abuse services through means such as psychosocial interviews; urine and breathalyzer screenings; and reviews of available educational, delinquency, and dependency records of the child.
- (58)(55) "Preventive services" means social services and other supportive and rehabilitative services provided to the parent or legal custodian of the child and to the child for the purpose of averting the removal of the child from the home or disruption of a family which will or could result in the placement of a child in foster care. Social services and other

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supportive and rehabilitative services shall promote the child's need for physical, mental, and emotional health and a safe, stable, living environment, shall promote family autonomy, and shall strengthen family life, whenever possible.

- (59)(56) "Prospective parent" means a person who claims to be, or has been identified as, a person who may be a mother or a father of a child.
- (60)(57) "Protective investigation" means the acceptance of a report alleging child abuse, abandonment, or neglect, as defined in this chapter, by the central abuse hotline or the acceptance of a report of other dependency by the department; the investigation of each report; the determination of whether action by the court is warranted; the determination of the disposition of each report without court or public agency action when appropriate; and the referral of a child to another public or private agency when appropriate.
- (61)(58) "Protective investigator" means an authorized agent of the department who receives and investigates reports of child abuse, abandonment, or neglect; who, as a result of the investigation, may recommend that a dependency petition be filed for the child; and who performs other duties necessary to carry out the required actions of the protective investigation function.
- (62)(59) "Protective supervision" means a legal status in dependency cases which permits the child to remain safely in his or her own home or other nonlicensed placement under the supervision of an agent of the department and which must be reviewed by the court during the period of supervision.
 - (63) (60) "Relative" means a grandparent, great-grandparent,

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sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by the whole or half blood, by affinity, or by adoption. The term does not include a stepparent.

- (64)(61) "Reunification services" means social services and other supportive and rehabilitative services provided to the parent of the child, to the child, and, where appropriate, to the relative placement, nonrelative placement, or foster parents of the child, for the purpose of enabling a child who has been placed in out-of-home care to safely return to his or her parent at the earliest possible time. The health and safety of the child shall be the paramount goal of social services and other supportive and rehabilitative services. The Such services shall promote the child's need for physical, mental, and emotional health and a safe, stable, living environment, shall promote family autonomy, and shall strengthen family life, whenever possible.
- (65) "Secretary" means the Secretary of Children and Family Services.
- (66) (63) "Sexual abuse of a child" means one or more of the following acts:
- (a) Any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.
- (b) Any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.
- (c) Any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that this does not include any act intended for a valid medical purpose.

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- (d) The intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of either the child or the perpetrator, except that this does not include:
- 1. Any act which may reasonably be construed to be a normal caregiver responsibility, any interaction with, or affection for a child; or
 - 2. Any act intended for a valid medical purpose.
- (e) The intentional masturbation of the perpetrator's genitals in the presence of a child.
- (f) The intentional exposure of the perpetrator's genitals in the presence of a child, or any other sexual act intentionally perpetrated in the presence of a child, if such exposure or sexual act is for the purpose of sexual arousal or gratification, aggression, degradation, or other similar purpose.
- (g) The sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to:
 - 1. Solicit for or engage in prostitution; or
- 2. Engage in a sexual performance, as defined by chapter 827.
- (67)(64) "Shelter" means a placement with a relative or a nonrelative, or in a licensed home or facility, for the temporary care of a child who is alleged to be or who has been found to be dependent, pending court disposition before or after adjudication.
- (68)(65) "Shelter hearing" means a hearing in which the court determines whether probable cause exists to keep a child in shelter status pending further investigation of the case.
 - (69)(66) "Social service agency" means the department, a

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licensed child-caring agency, or a licensed child-placing agency.

(70)(67) "Substance abuse" means using, without medical reason, any psychoactive or mood-altering drug, including alcohol, in such a manner as to induce impairment resulting in dysfunctional social behavior.

(71)(68) "Substantial compliance" means that the circumstances which caused the creation of the case plan have been significantly remedied to the extent that the well-being and safety of the child will not be endangered upon the child's remaining with or being returned to the child's parent.

(72)(69) "Taken into custody" means the status of a child immediately when temporary physical control over the child is attained by a person authorized by law, pending the child's release or placement.

(73)(70) "Temporary legal custody" means the relationship that a juvenile court creates between a child and an adult relative of the child, legal custodian, agency, or other person approved by the court until a more permanent arrangement is ordered. Temporary legal custody confers upon the custodian the right to have temporary physical custody of the child and the right and duty to protect, nurture, guide train, and discipline the child and to provide the child with food, shelter, and education, and ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by the court order establishing the temporary legal custody relationship.

(74) "Victim" means any child who has sustained or is threatened with physical, mental, or emotional injury identified in a report involving child abuse, neglect, or abandonment, or

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842 child-on-child sexual abuse.

(72) "Long-term licensed custody" means the relationship that a juvenile court order creates between a child and a placement licensed by the state to provide residential care for dependent children, if the licensed placement is willing and able to continue to care for the child until the child reaches the age of majority.

Section 2. Subsection (15) is added to section 39.0121, Florida Statutes, to read:

- 39.0121 Specific rulemaking authority.--Pursuant to the requirements of s. 120.536, the department is specifically authorized to adopt, amend, and repeal administrative rules which implement or interpret law or policy, or describe the procedure and practice requirements necessary to implement this chapter, including, but not limited to, the following:
- (15) Provision for making available to all physical custodians and family services counselors the information required by s. 39.6012(2) and for ensuring that this information follows the child until permanency has been achieved.

Section 3. Section 39.013, Florida Statutes, is amended to read:

- 39.013 Procedures and jurisdiction; right to counsel.--
- (1) All procedures, including petitions, pleadings, subpoenas, summonses, and hearings, in this chapter shall be conducted according to the Florida Rules of Juvenile Procedure unless otherwise provided by law. Parents must be informed by the court of their right to counsel in dependency proceedings at each stage of the dependency proceedings. Parents who are unable to afford counsel must be appointed counsel.

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(2) The circuit court has shall have exclusive original jurisdiction of all proceedings under this chapter, of a child voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, or the department, and of the adoption of children whose parental rights have been terminated under this chapter. Jurisdiction attaches when the initial shelter petition, dependency petition, or termination of parental rights petition is filed or when a child is taken into the custody of the department. The circuit court may assume jurisdiction over any such proceeding regardless of whether the child was in the physical custody of both parents, was in the sole legal or physical custody of only one parent, caregiver, or some other person, or was in the physical or legal custody of no person when the event or condition occurred that brought the child to the attention of the court. When the court obtains jurisdiction of any child who has been found to be dependent, the court shall retain jurisdiction, unless relinquished by its order, until the child reaches 18 years of age. However, if a youth petitions the court at any time before his or her 19th birthday requesting the court's continued jurisdiction, the juvenile court may retain jurisdiction under this chapter for a period not to exceed 1 year following the youth's 18th birthday for the purpose of determining whether appropriate aftercare support, Road-to-Independence Scholarship, transitional support, mental health, and developmental disability services, to the extent otherwise authorized by law, have been provided to the formerly dependent child who was in the legal custody of the department immediately before his or her 18th birthday. If a petition for special immigrant juvenile status and an application

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for adjustment of status have been filed on behalf of a foster child and the petition and application have not been granted by the time the child reaches 18 years of age, the court may retain jurisdiction over the dependency case solely for the purpose of allowing the continued consideration of the petition and application by federal authorities. Review hearings for the child shall be set solely for the purpose of determining the status of the petition and application. The court's jurisdiction terminates upon the final decision of the federal authorities. Retention of jurisdiction in this instance does not affect the services available to a young adult under s. 409.1451. The court may not retain jurisdiction of the case after the immigrant child's 22nd birthday.

- (3) When a child is under the jurisdiction of the circuit court pursuant to the provisions of this chapter, the circuit court assigned to handle dependency matters may exercise the general and equitable jurisdiction over guardianship proceedings under pursuant to the provisions of chapter 744 and proceedings for temporary custody of minor children by extended family under pursuant to the provisions of chapter 751.
- (4) Orders entered pursuant to this chapter which affect the placement of, access to, parental time with, adoption of, or parental rights and responsibilities for a minor child shall take precedence over other orders entered in civil actions or proceedings. However, if the court has terminated jurisdiction, the such order may be subsequently modified by a court of competent jurisdiction in any other civil action or proceeding affecting placement of, access to, parental time with, adoption of, or parental rights and responsibilities for the same minor

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929 child.

- (5) The court shall expedite the resolution of the placement issue in cases involving a child who has been removed from the parent and placed in an out-of-home placement.
- (6) The court shall expedite the judicial handling of all cases when the child has been removed from the parent and placed in an out-of-home placement.
- (7) Children removed from their homes shall be provided equal treatment with respect to goals, objectives, services, and case plans, without regard to the location of their placement.
- (8) For any child who remains in the custody of the department, the court shall, within the month which constitutes the beginning of the 6-month period before the child's 18th birthday, hold a hearing to review the progress of the child while in the custody of the department.
- (9)(a) At each stage of the proceedings under this chapter, the court shall advise the parents of the right to counsel. The court shall appoint counsel for indigent parents. The court shall ascertain whether the right to counsel is understood. When right to counsel is waived, the court shall determine whether the waiver is knowing and intelligent. The court shall enter its findings in writing with respect to the appointment or waiver of counsel for indigent parents or the waiver of counsel by nonindigent parents.
- (b) Once counsel has entered an appearance or been appointed by the court to represent the parent of the child, the attorney shall continue to represent the parent throughout the proceedings. If the attorney-client relationship is discontinued, the court shall advise the parent of the right to have new

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counsel retained or appointed for the remainder of the proceedings.

- (c)1. \underline{A} No waiver of counsel may <u>not</u> be accepted if it appears that the parent is unable to make an intelligent and understanding choice because of mental condition, age, education, experience, the nature or complexity of the case, or other factors.
 - 2. A waiver of counsel made in court must be of record.
- 3. If a waiver of counsel is accepted at any hearing or proceeding, the offer of assistance of counsel must be renewed by the court at each subsequent stage of the proceedings at which the parent appears without counsel.
- (d) This subsection does not apply to any parent who has voluntarily executed a written surrender of the child and consents to the entry of a court order terminating parental rights.
 - (10) The time limitations in this chapter do not include:
- (a) Periods of delay resulting from a continuance granted at the request or with the consent of the child's counsel or the child's guardian ad litem, if one has been appointed by the court, or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child.
- (b) Periods of delay resulting from a continuance granted at the request of any party, if the continuance is granted:
- 1. Because of an unavailability of evidence material to the case when the requesting party has exercised due diligence to obtain such evidence and there are substantial grounds to believe that such evidence will be available within 30 days. However, if

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the requesting party is not prepared to proceed within 30 days, any other party, inclusive of the parent or legal custodian, may move for issuance of an order to show cause or the court on its own motion may impose appropriate sanctions, which may include dismissal of the petition.

- 2. To allow the requesting party additional time to prepare the case and additional time is justified because of an exceptional circumstance.
- (c) Reasonable periods of delay necessary to accomplish notice of the hearing to the child's parent or legal custodian; however, the petitioner shall continue regular efforts to provide notice to the parents during such periods of delay.
- (d) Reasonable periods of delay resulting from a continuance granted at the request of the parent or legal custodian of a subject child.
- (e) Notwithstanding the foregoing, continuances and extensions of time are limited to the number of days absolutely necessary to complete a necessary task in order to preserve the rights of a party or the best interests of a child. Time is of the essence for the best interests of dependent children in conducting dependency proceedings in accordance with the time limitations set forth in this chapter. Time limitations are a right of the child which may not be waived, extended, or continued at the request of any party in advance of the particular circumstances or need arising upon which delay of the proceedings may be warranted.
- (f) Continuances or extensions of time may not total more than 60 days for all parties within any 12-month period during proceedings under this chapter. A continuance or extension of

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time beyond the 60 days may be granted only for extraordinary circumstances necessary to preserve the constitutional rights of a party or when substantial evidence demonstrates that the child's best interests will be affirmatively harmed without the granting of a continuance or extension of time.

- (10)(11) Court-appointed counsel representing indigent parents at shelter hearings shall be paid from state funds appropriated by general law.
- (11)(12) The court shall encourage the Statewide Guardian Ad Litem Office to provide greater representation to those children who are within 1 year of transferring out of foster care.

Section 4. Section 39.0136, Florida Statutes, is created to read:

- 39.0136 Time limitations; continuances.--
- (1) The Legislature finds that time is of the essence for establishing permanency for a child in the dependency system.

 Time limitations are a right of the child which may not be waived, extended, or continued at the request of any party except as provided in this section.
 - (2) The time limitations in this chapter do not include:
- (a) Periods of delay resulting from a continuance granted at the request of the child's counsel or the child's guardian ad litem or, if the child is of sufficient capacity to express reasonable consent, at the request or with the consent of the child. The court must consider the best interest of the child when determining periods of delay under this section.
- (b) Periods of delay resulting from a continuance granted at the request of any party if the continuance is granted:

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- 1. Because of an unavailability of evidence that is material to the case if the requesting party has exercised due diligence to obtain evidence and there are substantial grounds to believe that the evidence will be available within 30 days.

 However, if the requesting party is not prepared to proceed within 30 days, any other party may move for issuance of an order to show cause or the court, on its own motion, may impose appropriate sanctions, which may include dismissal of the petition.
- 2. To allow the requesting party additional time to prepare the case and additional time is justified because of an exceptional circumstance.
- (c) Reasonable periods of delay necessary to accomplish notice of the hearing to the child's parent or legal custodian; however, the petitioner shall continue regular efforts to provide notice to the parents during the periods of delay.
- (3) Notwithstanding subsection (2), in order to expedite permanency for a child, the total time allowed for continuances or extensions of time may not exceed 60 days within any 12-month period for proceedings conducted under this chapter. A continuance or extension of time may be granted only for extraordinary circumstances in which it is necessary to preserve the constitutional rights of a party or if substantial evidence exists to demonstrate that without granting a continuance or extension of time the child's best interest will be harmed.
- (4) Notwithstanding subsection (2), a continuance or an extension of time is limited to the number of days absolutely necessary to complete a necessary task in order to preserve the rights of a party or the best interest of a child.

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1074 Section 5. Section 39.0137, Florida Statutes, is created to 1075 read:

39.0137 Federal law; rulemaking authority.--

- (1) This chapter does not supersede the requirements of the Indian Child Welfare Act, 25 U.S.C. ss. 1901 et seq., or the Multi-Ethnic Placement Act of 1994, Pub. L. No. 103-382, as amended, or the implementing regulations.
- (2) The department shall adopt rules no later than July 1, 2007, to ensure that the provisions of these federal laws are enforced in this state. The department is encouraged to enter into agreements with recognized American Indian tribes in order to facilitate the implementation of the Indian Child Welfare Act.

Section 6. Section 39.0138, Florida Statutes, is created to read:

- 39.0138 Requirements for placement of children; exemptions from disqualification.--
- (1)(a) The department may conduct criminal records checks equivalent to the level 2 screening required in s. 435.04 for any person being considered by the department for approval for placement of a child subject to a placement decision under this chapter. Approval for placement with any person other than a parent may not be granted in any case in which a criminal records check reveals a felony conviction in a court of competent jurisdiction for:
- 1. Child abuse, abandonment, or neglect; spousal abuse; a crime against children, including child pornography, or a crime involving violence, including sexual battery; sexual assault, or homicide, but not including other physical assault or battery, if the felony was committed at any time; or

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- 2. Physical assault, battery, or a drug-related offense if the felony was committed within the past 5 years.
- (b) Notwithstanding paragraph (a), the department may place a child in a home that otherwise meets placement requirements if state and local criminal records checks do not disqualify the applicant and if the department has submitted fingerprint information to the Department of Law Enforcement for forwarding to the Federal Bureau of Investigation and is awaiting the results of the federal criminal records check.
- (c) Persons with whom placement of a child is being considered or approved must disclose to the department any prior or pending local, state, or federal criminal proceedings in which they are or have been involved.
- (d) The results of any criminal records check of a parent conducted under this section must be considered in determining whether placement with the parent will jeopardize the safety of the child being placed.
- (2)(a) The court may review the decision of the department to grant or deny an exemption upon the motion of any party, the request of any person who has been denied an exemption by the department, or on its own motion. The court shall prepare written findings to support its decision in this matter.
- (b) A person seeking placement of a child when the department has denied the placement based on a disqualifying criminal offense has the burden of setting forth sufficient evidence of rehabilitation, including, but not limited to, the circumstances surrounding the incident for which an exemption from disqualification is sought, the time period that has elapsed since the incident, the nature of the harm caused to the victim,

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the history of the person since the incident, and any other evidence or circumstances indicating that the person will not present a danger if the placement of the child is allowed.

Section 7. Paragraph (a) of subsection (1), paragraph (a) of subsection (2), and subsection (5) of section 39.201, Florida Statutes, are amended to read:

- 39.201 Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.--
- (1)(a) Any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).
- (2)(a) Each report of known or suspected child abuse, abandonment, or neglect by a parent, legal custodian, caregiver, or other person responsible for the child's welfare as defined in this chapter, except those solely under s. 827.04(3), and each report that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall be made immediately to the department's central abuse hotline on the single statewide toll-free telephone number. Personnel at the department's central abuse hotline shall determine if the report received meets the statutory definition of child abuse, abandonment, or neglect. Any report meeting one

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of these definitions shall be accepted for the protective investigation pursuant to part III of this chapter.

The department shall be capable of receiving and investigating, 24 hours a day, 7 days a week, reports of known or suspected child abuse, abandonment, or neglect and reports that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care 24 hours a day, 7 days a week. If it appears that the immediate safety or well-being of a child is endangered, that the family may flee or the child will be unavailable for purposes of conducting a child protective investigation, or that the facts otherwise so warrant, the department shall commence an investigation immediately, regardless of the time of day or night. In all other child abuse, abandonment, or neglect cases, a child protective investigation shall be commenced within 24 hours after receipt of the report. In an institutional investigation, the alleged perpetrator may be represented by an attorney, at his or her own expense, or accompanied by another person, if the person or the attorney executes an affidavit of understanding with the department and agrees to comply with the confidentiality provisions of s. 39.202. The absence of an attorney or other person does not prevent the department from proceeding with other aspects of the investigation, including interviews with other persons. In institutional child abuse cases when the institution is not operating and the child cannot otherwise be located, the investigation shall commence immediately upon the resumption of operation. If requested by a state attorney or local law enforcement agency, the department shall furnish all

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investigative reports to that agency.

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Section 8. Subsections (1), (2), (5), and (22) of section 39.301, Florida Statutes, are amended, and subsection (23) is added to that section, to read:

- 39.301 Initiation of protective investigations. --
- Upon receiving an oral or written report of known or suspected child abuse, abandonment, or neglect, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care, the central abuse hotline shall determine if the report requires an immediate onsite protective investigation. For reports requiring an immediate onsite protective investigation, the central abuse hotline shall immediately notify the department's designated children and families district staff responsible for protective investigations to ensure that an onsite investigation is promptly initiated. For reports not requiring an immediate onsite protective investigation, the central abuse hotline shall notify the department's designated children and families district staff responsible for protective investigations in sufficient time to allow for an investigation. At the time of notification of district staff with respect to the report, the central abuse hotline shall also provide information on any previous report concerning a subject of the present report or any pertinent information relative to the present report or any noted earlier reports.
- (2)(a) The department shall immediately forward allegations of criminal conduct to the municipal or county law enforcement agency of the municipality or county in which the alleged conduct

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1219 has occurred.

- (b) As used in this subsection, the term "criminal conduct" means:
- 1. A child is known or suspected to be the victim of child abuse, as defined in s. 827.03, or of neglect of a child, as defined in s. 827.03.
- 2. A child is known or suspected to have died as a result of abuse or neglect.
- 3. A child is known or suspected to be the victim of aggravated child abuse, as defined in s. 827.03.
- 4. A child is known or suspected to be the victim of sexual battery, as defined in s. 827.071, or of sexual abuse, as defined in s. 39.01.
- 5. A child is known or suspected to be the victim of institutional child abuse or neglect, as defined in s. 39.01, and as provided for in s. 39.302(1).
- 6. A child is known or suspected to be a victim of human trafficking, as provided in s. 787.06.
- (c) Upon receiving a written report of an allegation of criminal conduct from the department, the law enforcement agency shall review the information in the written report to determine whether a criminal investigation is warranted. If the law enforcement agency accepts the case for criminal investigation, it shall coordinate its investigative activities with the department, whenever feasible. If the law enforcement agency does not accept the case for criminal investigation, the agency shall notify the department in writing.
- (d) The local law enforcement agreement required in s. 39.306 shall describe the specific local protocols for

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implementing this section.

- (5)(a) Upon commencing an investigation under this part, the child protective investigator shall inform any subject of the investigation of the following:
- 1. The names of the investigators and identifying credentials from the department.
 - 2. The purpose of the investigation.
- 3. The right to obtain his or her own attorney and ways that the information provided by the subject may be used.
- 4. The possible outcomes and services of the department's response, which shall be explained to the parent or legal custodian.
- 5. The right of the parent or legal custodian to be involved to the fullest extent possible in determining the nature of the allegation and the nature of any identified problem.
- 6. The duty of the parent or legal custodian to report any change in the residence or location of the child to the investigator and that the duty to report continues until the investigation is closed.
- (b) The department's training program shall ensure that protective investigators know how to fully inform parents or legal custodians of their rights and options, including opportunities for audio or video recording of investigators' interviews with parents or legal custodians or children.
- (22) When an investigation is closed and a person is not identified as a caregiver responsible for the abuse, neglect, or abandonment alleged in the report, the fact that the person is named in some capacity in the report may not be used in any way to adversely affect the interests of that person. This

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prohibition applies to any use of the information in employment screening, licensing, child placement, adoption, or any other decisions by a private adoption agency or a state agency or its contracted providers, except that a previous report may be used to determine whether a child is safe and what the known risk is to the child at any stage of a child protection proceeding.

report a change in residence or location of the child to the protective investigator, a parent or legal custodian causes the child to move, or allows the child to be moved, to a different residence or location, or if the child leaves the residence on his or her own accord and the parent or legal custodian does not notify the protective investigator of the move within 2 business days, the child may be considered to be a missing child for the purposes of filing a report with a law enforcement agency under s. 937.021.

Section 9. Subsection (2) of section 39.303, Florida Statutes, is amended to read:

39.303 Child protection teams; services; eligible cases.—The Children's Medical Services Program in the Department of Health shall develop, maintain, and coordinate the services of one or more multidisciplinary child protection teams in each of the service districts of the Department of Children and Family Services. Such teams may be composed of appropriate representatives of school districts and appropriate health, mental health, social service, legal service, and law enforcement agencies. The Legislature finds that optimal coordination of child protection teams and sexual abuse treatment programs requires collaboration between the Department of Health and the

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Department of Children and Family Services. The two departments shall maintain an interagency agreement that establishes protocols for oversight and operations of child protection teams and sexual abuse treatment programs. The Secretary of Health and the Deputy Secretary for Children's Medical Services, in consultation with the Secretary of Children and Family Services, shall maintain the responsibility for the screening, employment, and, if necessary, the termination of child protection team medical directors, at headquarters and in the 15 districts. Child protection team medical directors shall be responsible for oversight of the teams in the districts.

- (2) The child abuse, abandonment, and neglect reports that must be referred by the department of Children and Family Services to child protection teams of the Department of Health for an assessment and other appropriate available support services as set forth in subsection (1) must include cases involving:
- (a) Injuries to the head, bruises to the neck or head, burns, or fractures in a child of any age.
 - (b) Bruises anywhere on a child 5 years of age or under.
- (c) Any report alleging sexual abuse of a child in which vaginal or anal penetration is alleged or in which other unlawful sexual conduct has been determined to have occurred.
- (d) Any sexually transmitted disease in a prepubescent child.
- (e) Reported malnutrition of a child and failure of a child to thrive.
 - (f) Reported medical neglect of a child.
 - (g) Any family in which one or more children have been

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pronounced dead on arrival at a hospital or other health care facility, or have been injured and later died, as a result of suspected abuse, abandonment, or neglect, when any sibling or other child remains in the home.

(h) Symptoms of serious emotional problems in a child when emotional or other abuse, abandonment, or neglect is suspected.

Section 10. Subsections (10) and (16) of section 39.402, Florida Statutes, are amended, and subsections (17) and (18) are added to that section, to read:

39.402 Placement in a shelter.--

- (10) (a) The shelter hearing order shall contain a written determination as to whether the department has made a reasonable effort to prevent or eliminate the need for removal or continued removal of the child from the home. This determination must include a description of which specific services, if available, could prevent or eliminate the need for removal or continued removal from the home and the date by which the services are expected to become available.
- (b) If services are not available to prevent or eliminate the need for removal or continued removal of the child from the home, the written determination must also contain a explanation describing why the services are not available for the child.
- (c) If the department has not made such an effort to prevent or eliminate the need for removal, the court shall order the department to provide appropriate and available services to ensure the protection of the child in the home when the such services are necessary for the child's health and safety.
- (16) At the conclusion of a shelter hearing, the court shall:

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- (a) Notify all parties in writing of the next scheduled hearing to review the shelter placement. The Such hearing shall be held no later than 30 days after placement of the child in shelter status, in conjunction with the arraignment hearing, and at such times as are otherwise provided by law or determined by the court to be necessary; and.
- (b) Notify all parties in writing of the date, time, and place of the case plan conference, family team conference, or mediation that will be used to develop the case plan. The case plan conference, family team conference, or mediation must take place no later than 30 days after placing the child in shelter status.
- (17) At the shelter hearing, the court shall inquire of the parent whether the parent has relatives who might be considered as a placement for the child. The parent shall provide to the court and all parties identification and location information regarding the relatives. The court shall advise the parent that the parent has a continuing duty to inform the department of any relative who should be considered as a placement for the child.
- (18) The court shall advise the parents that, if the parents fail to substantially comply with the case plan, their parental rights may be terminated and that the child's out-of-home placement may become permanent.
- Section 11. Present subsections (7) and (8) of section 39.507, Florida Statutes, are redesignated as subsections (8) and (9), respectively, and a new subsection (7) is added to that section, to read:
 - 39.507 Adjudicatory hearings; orders of adjudication.--
 - (7) If a court adjudicates a child dependent and the child

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is in out-of-home care, the court shall inquire of the parent or parents whether the parents have relatives who might be considered as a placement for the child. The court shall advise the parents that, if the parents fail to substantially comply with the case plan, their parental rights may be terminated and that the child's out-of-home placement may become permanent. The parent or parents shall provide to the court and all parties identification and location information of the relatives.

Section 12. Paragraph (c) of subsection (1) and paragraph (a) of subsection (2) of section 39.5085, Florida Statutes, are amended to read:

39.5085 Relative Caregiver Program. --

- (1) It is the intent of the Legislature in enacting this section to:
- (c) Recognize that permanency in the best interests of the child can be achieved through a variety of permanency options, including permanent guardianship under s. 39.6221 if the guardian is a relative, permanent placement with a fit and willing relative long term relative custody, guardianship under chapter 744, or adoption, by providing additional placement options and incentives that will achieve permanency and stability for many children who are otherwise at risk of foster care placement because of abuse, abandonment, or neglect, but who may successfully be able to be placed by the dependency court in the care of such relatives.
- (2)(a) The Department of Children and Family Services shall establish and operate the Relative Caregiver Program <u>under</u> pursuant to eligibility guidelines established in this section as further implemented by rule of the department. The Relative

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Caregiver Program shall, within the limits of available funding, provide financial assistance to:

- 1. Relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that dependent child in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the relative under pursuant to this chapter.
- 2. Relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that dependent child, and a dependent half-brother or half-sister of that dependent child, in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the relative <u>under pursuant to</u> this chapter.

The Such placement may be either court-ordered temporary legal custody to the relative under protective supervision of the department under pursuant to s. 39.521(1)(b)3., or court-ordered placement in the home of a relative as a permanency option under s. 39.6221 or s. 39.6231, or under former pursuant to s. 39.622. The Relative Caregiver Program shall offer financial assistance to caregivers who are relatives and who would be unable to serve in that capacity without the relative caregiver payment because of financial burden, thus exposing the child to the trauma of placement in a shelter or in foster care.

Section 13. Paragraph (d) of subsection (1) of section 39.521, Florida Statutes, is amended to read:

39.521 Disposition hearings; powers of disposition.--

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- (1) A disposition hearing shall be conducted by the court, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted.
- (d) The court shall, in its written order of disposition, include all of the following:
 - 1. The placement or custody of the child.
 - 2. Special conditions of placement and visitation.
- 3. Evaluation, counseling, treatment activities, and other actions to be taken by the parties, if ordered.
- 4. The persons or entities responsible for supervising or monitoring services to the child and parent.
- 5. Continuation or discharge of the guardian ad litem, as appropriate.
- 6. The date, time, and location of the next scheduled review hearing, which must occur within the earlier of:
 - a. Ninety days after the disposition hearing;
 - b. Ninety days after the court accepts the case plan;
 - c. Six months after the date of the last review hearing; or
- d. Six months after the date of the child's removal from his or her home, if no review hearing has been held since the child's removal from the home.
- 7. If the child is in an out-of-home placement, child support to be paid by the parents, or the guardian of the child's estate if possessed of assets which under law may be disbursed

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for the care, support, and maintenance of the child. The court may exercise jurisdiction over all child support matters, shall adjudicate the financial obligation, including health insurance, of the child's parents or guardian, and shall enforce the financial obligation as provided in chapter 61. The state's child support enforcement agency shall enforce child support orders under this section in the same manner as child support orders under chapter 61. Placement of the child shall not be contingent upon issuance of a support order.

- 8.a. If the court does not commit the child to the temporary legal custody of an adult relative, legal custodian, or other adult approved by the court, the disposition order shall include the reasons for such a decision and shall include a determination as to whether diligent efforts were made by the department to locate an adult relative, legal custodian, or other adult willing to care for the child in order to present that placement option to the court instead of placement with the department.
- b. If diligent efforts are made to locate an adult relative willing and able to care for the child but, because no suitable relative is found and, the child is placed with the department or a legal custodian or other adult approved by the court, both the department and the court shall consider transferring temporary legal custody to an adult relative approved by the court at a later date, but neither the department nor the court is obligated to so place the child if it is in the child's best interest to remain in the current placement.

For the purposes of this subparagraph, "diligent efforts to

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locate an adult relative" means a search similar to the diligent search for a parent, but without the continuing obligation to search after an initial adequate search is completed.

- 9. Other requirements necessary to protect the health, safety, and well-being of the child, to preserve the stability of the child's educational placement, and to promote family preservation or reunification whenever possible.
- Section 14. Subsection (1) of section 39.522, Florida Statutes, is amended to read:
- 39.522 Postdisposition change of custody.--The court may change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing, without the necessity of another adjudicatory hearing.
- A child who has been placed in the child's own home under the protective supervision of an authorized agent of the department, in the home of a relative, in the home of a legal custodian, or in some other place may be brought before the court by the department or by any other interested person, upon the filing of a petition alleging a need for a change in the conditions of protective supervision or the placement. If the parents or other legal custodians deny the need for a change, the court shall hear all parties in person or by counsel, or both. Upon the admission of a need for a change or after such hearing, the court shall enter an order changing the placement, modifying the conditions of protective supervision, or continuing the conditions of protective supervision as ordered. The standard for changing custody of the child shall be the best interest of the child. When applying this standard, the court shall consider the continuity of the child's placement in the same out-of-home

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residence as a factor when determining the best interest of the child. If the child is not placed in foster care, then the new placement for the child must meet the home study criteria and court approval pursuant to this chapter.

Section 15. Section 39.6011, Florida Statutes, is created to read:

39.6011 Case plan development.--

- (1) The department shall prepare a draft of the case plan for each child receiving services under this chapter. A parent of a child may not be threatened or coerced with the loss of custody or parental rights for failing to admit in the case plan to abusing, neglecting, or abandoning a child. Participating in the development of a case plan is not an admission to any allegation of abuse, abandonment, or neglect, and it is not a consent to a finding of dependency or termination of parental rights. The case plan shall be developed subject to the following requirements:
- (a) The case plan must be developed in a face-to-face conference with the parent of the child, any court-appointed guardian ad litem, and, if appropriate, the child and the temporary custodian of the child. The conference to prepare a case plan must be scheduled under s. 39.402(16)(b) and must be conducted according to one of the following procedures:
- 1. A case plan conference that is a meeting among the parties described in this subsection.
- 2. A mediation if dependency mediation services are available and appropriate and in the best interest of the child.
- 3. A family team conference if a family team conference is available.
 - (b) The parent may receive assistance from any person or

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social service agency in preparing the case plan. The social service agency, the department, and the court, when applicable, shall inform the parent of the right to receive such assistance, including the right to assistance of counsel.

- (c) If a parent is unwilling or unable to participate in developing a case plan, the department shall document that unwillingness or inability to participate. The documentation must be provided in writing to the parent when available for the court record, and the department shall prepare a case plan conforming as nearly as possible with the requirements set forth in this section. The unwillingness or inability of the parent to participate in developing a case plan does not preclude the filing of a petition for dependency or for termination of parental rights. The parent, if available, must be provided a copy of the case plan and be advised that he or she may, at any time before the filing of a petition for termination of parental rights, enter into a case plan and that he or she may request judicial review of any provision of the case plan with which he or she disagrees at any court hearing set for the child.
- (2) The case plan must be written simply and clearly in English and, if English is not the principal language of the child's parent, to the extent possible in the parent's principal language. Each case plan must contain:
- (a) A description of the identified problem being addressed, including the parent's behavior or acts resulting in risk to the child and the reason for the intervention by the department.
 - (b) The permanency goal as defined in s. 39.01(51).
 - (c) If concurrent planning is being used, a description of

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the permanency goal of reunification with the parent or legal custodian in addition to a description of one of the remaining permanency goals described in s. 39.01(51).

- (d) The date the compliance period expires. The case plan must be limited to as short a period as possible for accomplishing its provisions. The plan's compliance period expires no later than 12 months after the date the child was initially removed from the home or the date the case plan was accepted by the court, whichever occurs sooner.
- (e) A written notice to the parent that failure of the parent to substantially comply with the case plan may result in the termination of parental rights and that a material breach of the case plan may result in the filing of a petition for termination of parental rights sooner than the compliance period set forth in the case plan.
- (3) The case plan must be signed by all parties, except that the signature of a child may be waived if the child is not of an age or capacity to participate in the case planning process. Signing the case plan constitutes an acknowledgement that the case plan has been developed by the parties and that they are in agreement as to the terms and conditions contained in the case plan. The refusal of a parent to sign the case plan does not prevent the court from accepting the case plan if the case plan is otherwise acceptable to the court. Signing the case plan does not constitute an admission to any allegation of abuse, abandonment, or neglect and does not constitute consent to a finding of dependency or termination of parental rights. Before signing the case plan, the department shall explain the provisions of the plan to all persons involved in its

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implementation, including, when appropriate, the child.

(4) The case plan must describe:

- (a) The role of the foster parents or legal custodians when developing the services that are to be provided to the child, foster parents, or legal custodians.
- (b) The minimum number of face-to-face meetings to be held each month between the parents and the department's family services counselors to review the progress of the plan, to eliminate barriers to progress, and to resolve conflicts or disagreements.
- (c) The parent's responsibility for financial support of the child, including, but not limited to, health insurance and child support. The case plan must list the costs associated with any services or treatment that the parent and child are expected to receive which are the financial responsibility of the parent. The determination of child support and other financial support shall be made independently of any determination of indigency under s. 39.013.
- (5) When the permanency goal for a child is adoption, the case plan must include documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child. At a minimum, the documentation shall include recruitment efforts that are specific to the child, such as the use of state, regional, and national adoption exchanges, including electronic exchange systems.
- (6) After the case plan has been developed, the department shall adhere to the following procedural requirements:
- (a) If the parent's substantial compliance with the case plan requires the department to provide services to the parents

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or the child and the parents agree to begin compliance with the case plan before the case plan's acceptance by the court, the department shall make the appropriate referrals for services that will allow the parents to immediately begin the agreed upon tasks and services.

- (b) After the case plan has been agreed upon and signed by the parties, a copy of the plan must immediately be given to the parties, including the child, if appropriate, and to other persons as directed by the court.
- 1. A case plan must be prepared, but need not be submitted to the court, for a child who will be in care no longer than 30 days unless that child is placed in out-of-home care a second time within a 12-month period.
- 2. In each case in which a child has been placed in out-of-home care, a case plan must be prepared within 60 days after the department removes the child from the home and shall be submitted to the court before the disposition hearing for the court to review and approve.
- 3. After jurisdiction attaches, all case plans must be filed with the court and a copy provided to all the parties whose whereabouts are known not less than 3 business days before the disposition hearing. The department shall file with the court, and provide copies to the parties, all case plans prepared before jurisdiction of the court attached.
- (7) The case plan must be filed with the court and copies provided to all parties, including the child, if appropriate, not less than 3 business days before the disposition hearing.
- (8) The case plan must describe a process for making available to all physical custodians and family services

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counselors the information required by s. 39.6012(2) and for
ensuring that this information follows the child until permanency
has been achieved.

Section 16. Section 39.6012, Florida Statutes, is created to read:

- 39.6012 Case plan tasks; services.--
- (1) The services to be provided to the parent and the tasks that must be completed are subject to the following:
- (a) The services described in the case plan must be designed to improve the conditions in the home and aid in maintaining the child in the home, facilitate the child's safe return to the home, ensure proper care of the child, or facilitate the child's permanent placement. The services offered must be the least intrusive possible into the life of the parent and child, must focus on clearly defined objectives, and must provide the most efficient path to quick reunification or permanent placement given the circumstances of the case and the child's need for safe and proper care.
- (b) The case plan must describe each of the tasks with which the parent must comply and the services to be provided to the parent, specifically addressing the identified problem, including:
 - 1. The type of services or treatment.
- 2. The date the department will provide each service or referral for the service if the service is being provided by the department or its agent.
 - 3. The date by which the parent must complete each task.
- 1710 4. The frequency of services or treatment provided. The
 1711 frequency of the delivery of services or treatment provided shall

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- be determined by the professionals providing the services or treatment on a case-by-case basis and adjusted according to their best professional judgment.
 - 5. The location of the delivery of the services.
- 1716 6. The staff of the department or service provider
 1717 accountable for the services or treatment.
 - 7. A description of the measurable objectives, including the timeframes specified for achieving the objectives of the case plan and addressing the identified problem.
 - (2) The case plan must include all available information relevant to the child's care, including, at a minimum:
 - (a) A description of the identified needs of the child while in care.
 - (b) A description of the plan for ensuring that the child receives safe and proper care and that services are provided to the child in order to address the child's needs. To the extent available and accessible, the following health, mental health, and education information and records of the child must be attached to the case plan and updated throughout the judicial review process:
 - 1. The names and addresses of the child's health, mental health, and education providers.
 - 2. The child's grade-level performance.
 - 3. The child's school record.
 - 4. Assurances that the child's placement takes into account proximity to the school in which the child is enrolled at the time of placement.
 - 5. A record of the child's immunizations.
 - 6. The child's known medical history, including any known

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- 7. The child's medications, if any.
- 8. Any other relevant health, mental health, and education information concerning the child.
- (3) In addition to any other requirement, if the child is in an out-of-home placement, the case plan must include:
- (a) A description of the type of placement in which the child is to be living.
- (b) A description of the parent's visitation rights and obligations and the plan for sibling visitation if the child has siblings and is separated from them.
- (c) When appropriate, for a child who is 13 years of age or older, a written description of the programs and services that will help the child prepare for the transition from foster care to independent living.
- (d) A discussion of the safety and the appropriateness of the child's placement, which placement is intended to be safe, the least restrictive and the most family-like setting available consistent with the best interest and special needs of the child, and in as close proximity as possible to the child's home.
- Section 17. Section 39.6013, Florida Statutes, is created to read:
 - 39.6013 Case plan amendments.--
- (1) After the case plan has been developed under s.

 39.6011, the tasks and services agreed upon in the plan may not be changed or altered in any way except as provided in this section.
- (2) The case plan may be amended at any time in order to change the goal of the plan, employ the use of concurrent

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planning, add or remove tasks the parent must complete to substantially comply with the plan, provide appropriate services for the child, and update the child's health, mental health, and education records required by s. 39.6012.

- (3) The case plan may be amended upon approval of the court if all parties are in agreement regarding the amendments to the plan and the amended plan is signed by all parties and submitted to the court with a memorandum of explanation.
- (4) The case plan may be amended by the court or upon motion of any party at any hearing to change the goal of the plan, employ the use of concurrent planning, or add or remove tasks the parent must complete in order to substantially comply with the plan if there is a preponderance of evidence demonstrating the need for the amendment. The need to amend the case plan may be based on information discovered or circumstances arising after the approval of the case plan for:
- (a) A previously unaddressed condition that, without services, may prevent the child from safely returning to the home or may prevent the child from safely remaining in the home;
- (b) The child's need for permanency, taking into consideration the child's age and developmental needs;
- (c) The failure of a party to substantially comply with a task in the original case plan, including the ineffectiveness of a previously offered service; or
 - (d) An error or oversight in the case plan.
- (5) The case plan may be amended by the court or upon the motion of any party at any hearing to provide appropriate services to the child if there is competent evidence demonstrating the need for the amendment. The reason for amending

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the case plan may be based on information discovered or circumstances arising after the approval of the case plan regarding the provision of safe and proper care to the child.

- (6) The case plan is deemed amended as to the child's health, mental health, and education records required by s. 39.6012 when the child's updated health, mental health, and education records are filed by the department under s. 39.701(7)(a).
- (7) Amendments must include service interventions that are the least intrusive into the life of the parent and child, must focus on clearly defined objectives, and must provide the most efficient path to quick reunification or permanent placement given the circumstances of the case and the child's need for safe and proper care. A copy of the amended plan must immediately be given to the persons identified in s. 39.6011.

Section 18. Subsections (1) and (2) of section 39.603, Florida Statutes, are amended to read:

- 39.603 Court approvals of case planning.--
- (1) All case plans and amendments to case plans must be approved by the court. At the hearing on the <u>case</u> plan, which shall occur in conjunction with the disposition hearing unless otherwise directed by the court, the court shall determine:
- (a) All parties who were notified and are in attendance at the hearing, either in person or through a legal representative. The court may appoint a guardian ad litem under Rule 1.210, Florida Rules of Civil Procedure, to represent the interests of any parent, if the location of the parent is known but the parent is not present at the hearing and the development of the plan is based upon the physical, emotional, or mental condition or

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physical location of the parent.

- (b) If the plan is consistent with previous orders of the court placing the child in care.
- (c) If the plan is consistent with the requirements for the content of a plan as specified in this chapter.
- (d) In involuntary placements, whether each parent was notified of the right to counsel at each stage of the dependency proceedings, in accordance with the Florida Rules of Juvenile Procedure.
- (e) Whether each parent whose location was known was notified of the right to participate in the preparation of a case plan and of the right to receive assistance from any other person in the preparation of the case plan.
- (f) Whether the plan is meaningful and designed to address facts and circumstances upon which the court based the finding of dependency in involuntary placements or the plan is meaningful and designed to address facts and circumstances upon which the child was placed in out-of-home care voluntarily.
- (2) When the court determines that any of the elements considered at the hearing related to the plan have not been met, the court shall require the parties to make necessary amendments to the plan <u>under s. 39.6013</u>. The amended plan must be submitted to the court for review and approval within 30 days after the hearing. A copy of the amended plan must also be provided to each party, if the location of the party is known, at least 3 business days before 72 hours prior to filing with the court.
- Section 19. Section 39.621, Florida Statutes, is amended to read:
 - 39.621 Permanency determination by the court.--

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- (1) The Legislature finds that time is of the essence for permanency of children in the dependency system. A permanency hearing must be held no later than 12 months after the date the child was removed from the home or no later than 30 days after a court determines that reasonable efforts to return a child to either parent are not required, whichever occurs first. The purpose of the permanency hearing is to determine when the child will achieve the permanency goal or whether modifying the current goal is in the best interest of the child. A permanency hearing must be held at least every 12 months for any child who continues to receive supervision from the department or awaits adoption. When the court has determined that reunification with either parent is not appropriate, then the court must make a permanency determination for the child.
 - (2) The permanency goals available under this chapter are:
 - (a) Reunification;

- (b) Adoption, if a petition for termination of parental rights has been or will be filed;
- (c) Permanent guardianship of a dependent child under s. 39.6221;
- (d) Permanent placement with a fit and willing relative under s. 39.6231; or
- (e) Placement in another planned permanent living arrangement under s. 39.6241.
- (3)(a) At least 3 business days before the permanency hearing, the department shall file its judicial review social services report with the court and provide copies of the report to all parties. The report must include a recommended permanency goal for the child, suggest changes to the case plan, if needed,

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and describe why the recommended goal is in the best interest of the child.

- (b) Before the permanency hearing, the department shall advise the child and the individuals with whom the child will be placed about the availability of more permanent and legally secure placements and what type of financial assistance is associated with each placement.
 - (4) At the permanency hearing, the court shall determine:
- (a) Whether the current permanency goal for the child is appropriate or should be changed.
- (b) When the child will achieve one of the permanency goals.
- (c) Whether the department has made reasonable efforts to finalize the permanency plan currently in effect.
- (5) The best interest of the child is the primary consideration in determining the permanency goal for the child. The court must also consider:
- (a) The reasonable preference of the child if the court has found the child to be of sufficient intelligence, understanding, and experience to express a preference.
 - (b) Any recommendation of the guardian ad litem.
- (6)(a)(2) If a child will not be reunited with a parent, adoption, under pursuant to chapter 63, is the primary permanency option available to the court. If the child is placed with a relative or with a relative of the child's half-brother or half-sister as a permanency option, the court may shall recognize the permanency of this placement without requiring the relative to adopt the child.
 - (b) If the court approves a permanency goal of permanent

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guardianship of a dependent child, placement with a fit and willing relative, or another planned permanent living arrangement, the court shall make findings as to why this permanent placement is established without adoption of the child to follow. If the court approves a permanency goal of another planned permanent living arrangement, the court shall document the compelling reasons for choosing this goal.

- (7) The findings of the court regarding reasonable efforts to finalize the permanency plan must be explicitly documented, made on a case-by-case basis, and stated in the court order.
- (8) The case plan must list the tasks necessary to finalize the permanency placement and shall be updated at the permanency hearing if necessary. If a concurrent case plan is in place, the court may choose between the permanency goal options presented and shall approve the goal that is in the child's best interest.
- (9) The permanency placement is intended to continue until the child reaches the age of majority and may not be disturbed absent a finding by the court that the circumstances of the permanency placement are no longer in the best interest of the child. If a parent who has not had his or her parental rights terminated makes a motion for reunification or increased contact with the child, the court shall hold a hearing to determine whether the dependency case should be reopened and whether there should be a modification of the order. At the hearing, the parent must demonstrate that the safety, well-being, and physical, mental, and emotional health of the child is not endangered by the modification.
- (10) The court shall base its decision concerning any motion by a parent for reunification or increased contact with a

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PCB FFF 06-03 Redraft - B 2006 1944 child on the effect of the decision on the safety, well-being, and physical and emotional health of the child. Factors that must 1945 1946 be considered and addressed in the findings of fact of the order 1947 on the motion must include: 1948 The compliance or noncompliance of the parent with the 1949 case plan. 1950 (b) The circumstances which caused the child's dependency and whether those circumstances have been resolved. 1951 1952 The stability and longevity of the child's placement; (C) 1953 (d) The preferences of the child, if the child is of 1954 sufficient age and understanding to express a preference; 1955 The recommendation of the current custodian. (f) 1956 The recommendation of the guardian ad litem, if one has 1957 been appointed. 1958 (3) The permanency options listed in the following 1959 paragraphs shall only be considered by the court if adoption is 1960 determined by the court to not be in the child's best interest, 1961 except as otherwise provided in subsection (2): 1962 (a) Cuardianship pursuant to chapter 744. 1963 (b) Long-term custody. 1964 (c) Long term licensed custody. 1965 (d) Independent living. 1966 1967 The permanency placement is intended to continue until the child 1968 reaches the age of majority and shall not be disturbed absent a 1969 finding by the court that the circumstances of the permanency 1970 placement are no longer in the best interest of the child. 1971 Section 20. Section 39.6221, Florida Statutes, is created

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to read:

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39.6221	Permanent	guardianship	of	а	dependent	child

- (1) If a court determines that reunification or adoption is not in the best interest of the child, the court may place the child in a permanent guardianship with a relative or other adult approved by the court if all of the following conditions are met:
- (a) The child has been in the placement for not less than the preceding 6 months.
- (b) The permanent guardian is suitable and able to provide a safe and permanent home for the child.
- (c) The court determines that the child and the relative or other adult are not likely to need supervision or services of the department to ensure the stability of the permanent guardianship.
- (d) The permanent guardian has made a commitment to provide for the child until the child reaches the age of majority and to prepare the child for adulthood and independence.
- (e) The permanent guardian agrees to give notice of any change in his or her residential address or the residence of the child by filing a written document in the dependency file of the child with the clerk of the court.
- (2) In its written order establishing a permanent guardianship, the court shall:
- (a) List the circumstances or reasons the child's parents are not fit to care for the child and why reunification is not possible by referring to specific findings of fact made in its order adjudicating the child dependent or by making separate findings of fact.
- (b) State the reasons a permanent guardianship is being established instead of adoption.
 - (c) Specify the frequency and nature of visitation or

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contact between the child and his or her parents.

- (d) Specify the frequency and nature of visitation or contact between the child and his or her grandparents, under s. 39.509.
- (e) Specify the frequency and nature of visitation or contact between the child and his or her siblings.
- (f) Require that the permanent guardian not return the child to the physical care and custody of the person from whom the child was removed without the approval of the court.
- (g) List the powers and duties of the permanent guardian which shall include the rights and duties of a parent, including, but not limited to:
 - 1. The right to physical and legal custody of the child.
- 2. The right and duty to protect, nurture, guide, and discipline the child.
- 3. The right and duty to provide the child with food, shelter, and education.
- 4. The right and duty to provide the child with ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by court order.
- order establishing the authority of the permanent guardian to care for the child, specifying what powers and duties listed in paragraph (2)(g) belong to the permanent guardian, and providing any other information the court deems proper which can be provided to persons who are not parties to the proceeding as necessary, notwithstanding the confidentiality provisions of s. 39.202.

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- (4) A permanent guardianship of a dependent child established under this chapter is not a plenary guardianship and is not subject to the requirements of chapter 744.
- (5) The court shall retain jurisdiction over the case and the child shall remain in the custody of the permanent guardian unless the order creating the permanent guardianship is modified by the court. The court shall discontinue regular review hearings and relieve the department of the responsibility for supervising the placement of the child. Notwithstanding the retention of jurisdiction, the placement shall be considered permanency for the child.
- (6) Placement of a child in a permanent guardianship does not terminate the parent-child relationship, including:
- (a) The right of the child to inherit from his or her parents.
 - (b) The parents' right to consent to the child's adoption.
- (c) The parents' responsibility to provide financial, medical, and other support for the child as ordered by the court.
- Section 21. Section 39.6231, Florida Statutes, is created to read:
- 39.6231 Permanent placement with a fit and willing relative.--
- (1) If a court finds that reunification or adoption are not in the best interest of a child, the court may place the child with a fit and willing relative as a permanency option if:
- (a) The child has been in the placement for at least the preceding 6 months.
- (b) The relative has made a commitment to provide for the child until the child reaches the age of majority and to prepare

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2060 the child for adulthood and independence.

- (c) The relative is suitable and able to provide a safe and permanent home for the child.
- (d) The relative agrees to give notice of any change in his or her residence or the residence of the child by filing a written document with the clerk of court.
- (2) The department and the guardian ad litem shall provide the court with a recommended list and description of services needed by the child and the family in order to ensure the permanency of the placement.
- (3) In its written order placing the child with a fit and willing relative, the court shall:
- (a) List the circumstances or reasons reunification is not possible by referring to specific findings of fact made in its order adjudicating the child dependent or by making separate findings of fact.
- (b) State the reasons permanent placement with a fit and willing relative is being established instead of adoption;
- (c) Specify the frequency and nature of visitation or contact between the child and his or her parents.
- (d) Specify the frequency and nature of visitation or contact between the child and his or her grandparents, under s. 39.509.
- (e) Specify the frequency and nature of visitation or contact between the child and his or her siblings.
- (f) Require that the relative not return the child to the physical care and custody of the person from whom the child was removed without the approval of the court.
 - (4) The court shall give the relative a separate order

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establishing his or her authority to care for the child and providing other information the court deems proper which can be provided to entities and individuals who are not parties to the proceeding as necessary, notwithstanding the confidentiality of s. 39.202.

- (5) The department shall continue to supervise the placement with the relative until further court order. The court shall continue to review the placement at least once every 6 months.
- (6) Each party to the proceeding must be advised by the department and the court that placement with a fit and willing relative does not preclude the possibility of the child returning to the custody of the parent.
- (7) The court shall continue to conduct permanency hearings in order to reevaluate the possibility of adoption or permanent guardianship of the child.

Section 22. Section 39.6241, Florida Statutes, is created to read:

- 39.6241 Another planned permanent living arrangement.--
- (1) If a court finds that reunification is not in the best interest of a child, the court may approve placement of the child in another planned permanent living arrangement if:
- (a) The court finds a more permanent placement, such as adoption, permanent guardianship, or placement with a fit and willing relative, is not in the best interest of the child.
- (b) The department documents reasons the placement will endure and how the proposed arrangement will be more stable and secure than ordinary foster care.
 - (c) The court finds that the health, safety, and well-being

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of the child will not be jeopardized by such an arrangement.

- (d) There are compelling reasons to show that another placement is the most appropriate permanency goal. Compelling reasons for another placement may include, but are not limited to:
- 1. The case of a parent and child who have a significant bond but the parent is unable to care for the child because of an emotional or physical disability and the child's foster parents have committed to raising him or her to the age of majority and to facilitate visitation with the disabled parent;
- 2. The case of a child for whom an Indian tribe has identified another planned permanent living arrangement for the child; or
- 3. The case of a foster child who is 16 years of age or older who chooses to remain in foster care and the child's foster parents are willing to care for the child until the child reaches 18 years of age.
- (2) The department and the guardian ad litem must provide the court with a recommended list and description of services needed by the child, such as independent living services and medical, dental, educational, or psychological referrals, and a recommended list and description of services needed by his or her caregiver.
- Section 23. Paragraphs (a) and (c) of subsection (7), paragraph (g) of subsection (8), and subsection (9) of section 39.701, Florida Statutes, are amended, and paragraph (k) is added to subsection (8) of that section, to read:
 - 39.701 Judicial review.--
 - (7)(a) Before Prior to every judicial review hearing or

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citizen review panel hearing, the social service agency shall make an investigation and social study concerning all pertinent details relating to the child and shall furnish to the court or citizen review panel a written report that includes, but is not limited to:

- 1. A description of the type of placement the child is in at the time of the hearing, including the safety of the child and the continuing necessity for and appropriateness of the placement.
- 2. Documentation of the diligent efforts made by all parties to the case plan to comply with each applicable provision of the plan.
- 3. The amount of fees assessed and collected during the period of time being reported.
- 4. The services provided to the foster family or legal custodian in an effort to address the needs of the child as indicated in the case plan.
 - 5. A statement that either:
- a. The parent, though able to do so, did not comply substantially with the provisions of the case plan, and the agency recommendations;
- b. The parent did substantially comply with the provisions of the case plan; or
- c. The parent has partially complied with the provisions of the case plan, with a summary of additional progress needed and the agency recommendations.
- 6. A statement from the foster parent or legal custodian providing any material evidence concerning the return of the child to the parent or parents.

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- 7. A statement concerning the frequency, duration, and results of the parent-child visitation, if any, and the agency recommendations for an expansion or restriction of future visitation.
- 8. The number of times a child has been removed from his or her home and placed elsewhere, the number and types of placements that have occurred, and the reason for the changes in placement.
- 9. The number of times a child's educational placement has been changed, the number and types of educational placements which have occurred, and the reason for any change in placement.
- 10. If the child has reached 13 years of age but is not yet 18 years of age, the results of the preindependent living, life skills, or independent living assessment; the specific services needed; and the status of the delivery of the identified services.
- 11. Copies of all medical, psychological, and educational records that support the terms of the case plan and that have been produced concerning the child, parents, or any caregiver since the last judicial review hearing.
- 12. Copies of the child's current health, mental health, and education records as identified in s. 39.6012.
- (c) In a case in which the child has been permanently placed with the social service agency, the agency shall furnish to the court a written report concerning the progress being made to place the child for adoption. If the child cannot be placed for adoption, a report on the progress made by the child towards alternative permanency goals or placements, including, but not limited to, guardianship, permanent guardianship under s.

 39.6221, permanent placement under s. 39.6231 long-term custody,

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long term licensed custody, or independent living, must be submitted to the court. The report must be submitted to the court at least 72 hours before each scheduled judicial review.

- (8) The court and any citizen review panel shall take into consideration the information contained in the social services study and investigation and all medical, psychological, and educational records that support the terms of the case plan; testimony by the social services agency, the parent, the foster parent or legal custodian, the guardian ad litem if one has been appointed for the child, and any other person deemed appropriate; and any relevant and material evidence submitted to the court, including written and oral reports to the extent of their probative value. These reports and evidence may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of their probative value, even though not competent in an adjudicatory hearing. In its deliberations, the court and any citizen review panel shall seek to determine:
- according to s. 39.6012, including, but not limited to, the appropriateness of the child's current placement, including whether the child is in a setting that which is as family-like and as close to the parent's home as possible, consistent with the child's best interests and special needs, and including maintaining stability in the child's educational placement.
- (k) If amendments to the case plan are required. Amendments to the case plan must be made under s. 39.6013.
- (9)(a) Based upon the criteria set forth in subsection (8) and the recommended order of the citizen review panel, if any,

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the court shall determine whether or not the social service agency shall initiate proceedings to have a child declared a dependent child, return the child to the parent, continue the child in out-of-home care for a specified period of time, or initiate termination of parental rights proceedings for subsequent placement in an adoptive home. Amendments

Modifications to the case plan must be prepared handled as prescribed in s. 39.6013 s. 39.601. If the court finds that the prevention or reunification efforts of the department will allow the child to remain safely at home or be safely returned to the home, the court shall allow the child to remain in or return to the home after making a specific finding of fact that the reasons for the creation of the case plan have been remedied to the extent that the child's safety, well-being, and physical, mental, and emotional health will not be endangered.

- (b) The court shall return the child to the custody of the parents at any time it determines that they have substantially complied with the case plan, if the court is satisfied that reunification will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health.
- (c) If, in the opinion of the court, the social service agency has not complied with its obligations as specified in the written case plan, the court may find the social service agency in contempt, shall order the social service agency to submit its plans for compliance with the agreement, and shall require the social service agency to show why the child could not safely be returned to the home of the parents.
- (d) The court may extend the time limitation of the case plan, or may modify the terms of the plan, based upon information

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provided by the social service agency, and the guardian ad litem, if one has been appointed, the parent or parents, and the foster parents or legal custodian, and any other competent information on record demonstrating the need for the amendment. If the court extends the time limitation of the case plan, the court must make specific findings concerning the frequency of past parent-child visitation, if any, and the court may authorize the expansion or restriction of future visitation. Modifications to the plan must be handled as prescribed in s. 39.601. Any extension of a case plan must comply with the time requirements and other requirements specified by this chapter.

(d)(e) If, at any judicial review, the court finds that the parents have failed to substantially comply with the case plan to the degree that further reunification efforts are without merit and not in the best interest of the child, on its own motion, the court it may order authorize the filing of a petition for termination of parental rights, whether or not the time period as contained in the case plan for substantial compliance has expired elapsed.

(e) (f) No later than 6 12 months after the date that the child was placed in shelter care, the court shall conduct a judicial review hearing to review plan for the child's permanency goal as identified in the case plan. At the hearing, the court shall make findings regarding the likelihood of the child's reunification with the parent or legal custodian within 12 months after the removal of the child from the home. If, at this hearing, the court makes a written finding that it is not likely that the child will be reunified with the parent or legal custodian within 12 months after the child was removed from the

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home, the department must file with the court and serve on all parties a motion to amend the case plan under s. 39.6013 and declare that it will use concurrent planning for the case plan. The department must file the motion no later than 10 business days after receiving the written finding of the court. The department must attach the proposed amended case plan to the motion. If concurrent planning is already being used, the case plan must document the efforts the department is taking to complete the concurrent goal. At this hearing, if the child is not returned to the physical custody of the parents, the case plan may be extended with the same goals only if the court finds that the situation of the child is so extraordinary that the plan should be extended. The case plan must document steps the department is taking to find an adoptive parent or other permanent living arrangement for the child.

<u>(f)</u> (g) The court may issue a protective order in assistance, or as a condition, of any other order made under this part. In addition to the requirements included in the case plan, the protective order may set forth requirements relating to reasonable conditions of behavior to be observed for a specified period of time by a person or agency who is before the court; and the such order may require any such person or agency to make periodic reports to the court containing such information as the court in its discretion may prescribe.

Section 24. Section 39.703, Florida Statutes, is amended to read:

- 39.703 Initiation of termination of parental rights proceedings; judicial review.--
 - (1) If, in preparation for a any judicial review hearing

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under this chapter, it is the opinion of the social service agency that the parents of the child have not complied with their responsibilities as specified in the written case plan although able to do so, the department shall state its intent to initiate proceedings to terminate parental rights, unless the social service agency can demonstrate to the court that such a recommendation would not be in the child's best interests. If it is the intent of the department to initiate proceedings to terminate parental rights, the department shall file a petition for termination of parental rights no later than 3 months after the date of the previous judicial review hearing. If the petition cannot be filed within 3 months, the department shall provide a written report to the court outlining the reasons for delay, the progress made in the termination of parental rights process, and the anticipated date of completion of the process.

(2) If, at the time of the 12-month judicial review hearing, a child is not returned to the physical custody of the parents, the department shall file a petition to terminate parental rights. The court shall set an advisory hearing at the judicial review hearing if an advisory hearing has not previously been set. initiate termination of parental rights proceedings under this chapter within 30 days. Only if the court finds that the situation of the child is so extraordinary and that the best interests of the child will be met by such action at the time of the judicial review may the case plan be extended. If the court decides to extend the plan, the court shall enter detailed findings justifying the decision to extend, as well as the length of the extension. A termination of parental rights petition need not be filed if: the child is being cared for by a relative who

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chooses not to adopt the child but who is willing, able, and suitable to serve as the legal custodian for the child until the child reaches 18 years of age; the court determines that filing such a petition would not be in the best interests of the child; or the state has not provided the child's parent, when reasonable efforts to return a child are required, consistent with the time period in the state's case plan, such services as the state deems necessary for the safe return of the child to his or her home. Failure to initiate termination of parental rights proceedings at the time of the 12-month judicial review or within 30 days after such review does not prohibit initiating termination of parental rights proceedings at any other time.

- (3) Notwithstanding subsection (2), the department may choose to not file or join in a petition to terminate the parental rights of a parent under subsection (2) if:
- (a) The child is being cared for by a relative under s.
 39.6231;
- (b) The department has documented in the report to the court a compelling reason for determining that filing such a petition would not be in the best interest of the child.

 Compelling reasons for not filing or joining a petition to terminate parental rights may include, but are not limited to:
- 1. Adoption is not the appropriate permanency goal for the child;
- 2. No grounds to file a petition to terminate parental rights exist;
- 3. The child is an unaccompanied refugee minor as defined in 45 C.F.R. 400.111;
 - 4. There are international legal obligations or compelling

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reasons relating to foreign policy that would preclude terminating parental rights; or

- 5. The department has not provided to the family, consistent with the time period in the case plan, services that the department deems necessary for the safe return of the child to the home.
- (4) Upon good cause shown by any party or on its own motion, the court may review the determination by the department that compelling reasons exist for not filing a petition for termination of parental rights.
- Section 25. Subsections (1) and (2) of section 39.806, Florida Statutes, are amended to read:
 - 39.806 Grounds for termination of parental rights.--
- (1) The department, the guardian ad litem, or any person who has knowledge of the facts alleged or who is informed of those facts and believes that they are true may petition Grounds for the termination of parental rights may be established under any of the following circumstances:
- (a) When the parent or parents have voluntarily executed a written surrender of the child and consented to the entry of an order giving custody of the child to the department for subsequent adoption and the department is willing to accept custody of the child.
- 1. The surrender document must be executed before two witnesses and a notary public or other person authorized to take acknowledgments.
- 2. The surrender and consent may be withdrawn after acceptance by the department only after a finding by the court that the surrender and consent were obtained by fraud or under

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- (b) Abandonment as defined in s. 39.01(1) or when the identity or location of the parent or parents is unknown and cannot be ascertained by diligent search within 60 days.
- (c) When the parent or parents engaged in conduct toward the child or toward other children that demonstrates that the continuing involvement of the parent or parents in the parent-child relationship threatens the life, safety, well-being, or physical, mental, or emotional health of the child irrespective of the provision of services. Provision of services may be evidenced by proof that services were provided through a previous plan or offered as a case plan from a child welfare agency.
- (d) When the parent of a child is incarcerated in a state or federal correctional institution and either:
- 1. The period of time for which the parent is expected to be incarcerated will constitute a substantial portion of the period of time before the child will attain the age of 18 years;
- 2. The incarcerated parent has been determined by the court to be a violent career criminal as defined in s. 775.084, a habitual violent felony offender as defined in s. 775.084, or a sexual predator as defined in s. 775.21; has been convicted of first degree or second degree murder in violation of s. 782.04 or a sexual battery that constitutes a capital, life, or first degree felony violation of s. 794.011; or has been convicted of an offense in another jurisdiction which is substantially similar to one of the offenses listed in this paragraph. As used in this section, the term "substantially similar offense" means any offense that is substantially similar in elements and penalties to one of those listed in this subparagraph, and that is in

violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction; or

- 3. The court determines by clear and convincing evidence that continuing the parental relationship with the incarcerated parent would be harmful to the child and, for this reason, that termination of the parental rights of the incarcerated parent is in the best interest of the child.
- (e) A petition for termination of parental rights may also be filed When a child has been adjudicated dependent, a case plan has been filed with the court, and:
- 1. The child continues to be abused, neglected, or abandoned by the parents. In this case, the failure of the parents to substantially comply for a period of 12 months after an adjudication of the child as a dependent child or the child's placement into shelter care, whichever came first, constitutes evidence of continuing abuse, neglect, or abandonment unless the failure to substantially comply with the case plan was due either to the lack of financial resources of the parents or to the failure of the department to make reasonable efforts to reunify the parent and child. The Such 12-month period begins may begin to run only after the child's placement into shelter care or the entry of a disposition order placing the custody of the child with the department or a person other than the parent and the approval by the court of a case plan with a goal of reunification with the parent, whichever came first; or
- 2. The parent has materially breached the case plan by making it unlikely that he or she will be able to substantially comply with the case plan before the time for compliance expires.

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Because time is of the essence for permanency of children in the dependency system and, thus, in order to prove the parent has materially breached the case plan, the court must find by clear and convincing evidence that the parent is unlikely or unable to substantially comply with the case plan before time expires to comply with the case plan.

- (f) When the parent or parents engaged in egregious conduct or had the opportunity and capability to prevent and knowingly failed to prevent egregious conduct that threatens the life, safety, or physical, mental, or emotional health of the child or the child's sibling.
- 1. As used in this subsection, the term "sibling" means another child who resides with or is cared for by the parent or parents regardless of whether the child is related legally or by consanguinity.
- 2. As used in this subsection, the term "egregious conduct" means abuse, abandonment, neglect, or any other conduct of the parent or parents that is deplorable, flagrant, or outrageous by a normal standard of conduct. Egregious conduct may include an act or omission that occurred only once but was of such intensity, magnitude, or severity as to endanger the life of the child.
- (g) When the parent or parents have subjected the child to aggravated child abuse as defined in s. 827.03, sexual battery or sexual abuse as defined in s. 39.01, or chronic abuse.
- (h) When the parent or parents have committed murder or voluntary manslaughter of another child, or a felony assault that results in serious bodily injury to the child or another child, or aided or abetted, attempted, conspired, or solicited to commit

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such a murder or voluntary manslaughter or felony assault.

- (i) When the parental rights of the parent to a sibling have been terminated involuntarily.
- (2) Reasonable efforts to preserve and reunify families <u>are</u> shall not be required if a court of competent jurisdiction has determined that any of the events described in paragraphs (1)(e)-(i) have occurred.

Section 26. Subsection (1) of section 39.810, Florida Statutes, is amended to read:

- 39.810 Manifest best interests of the child.—In a hearing on a petition for termination of parental rights, the court shall consider the manifest best interests of the child. This consideration shall not include a comparison between the attributes of the parents and those of any persons providing a present or potential placement for the child. For the purpose of determining the manifest best interests of the child, the court shall consider and evaluate all relevant factors, including, but not limited to:
- (1) Any suitable permanent custody arrangement with a relative of the child. However, the availability of a nonadoptive placement with a relative may not receive greater consideration than any other factor weighing on the manifest best interest of the child and may not be considered as a factor weighing against termination of parental rights. If a child has been in a stable or preadoptive placement for not less than 6 months, the availability of a different placement, including a placement with a relative, may not be considered as a ground to deny the termination of parental rights.

Section 27. Subsection (4) of section 39.811, Florida

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Statutes, is amended to read:

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- 39.811 Powers of disposition; order of disposition.--
- If the child is neither in the custody of the department nor in the custody of a parent and the court finds that the grounds for termination of parental rights have been established for either or both parents, the court shall enter an order terminating parental rights for the parent or parents for whom the grounds for termination have been established and placing the child with the department or an appropriate legal custodian. If the parental rights of both parents have been terminated, or if the parental rights of only one parent have been terminated and the court makes specific findings based on evidence presented that placement with the remaining parent is likely to be harmful to the child, the court may order that the child be placed with a legal custodian other than the department after hearing evidence of the suitability of the such intended placement. Suitability of the intended placement includes the fitness and capabilities of the proposed legal custodian to function as the primary caregiver for a particular child; and the compatibility of the child with the home in which the child is intended to be placed. If the court orders that a child be placed with a legal custodian under this subsection, the court shall appoint a such legal custodian either as the guardian for the child as provided in s. 744.3021 or s. 39.621 or as the long term custodian of the child as provided in s. 39.622 so long as the child has been residing with the legal custodian for a minimum of 6-months. The court may modify the order placing the child in the custody of the legal custodian and revoke the guardianship established under s. 744.3021 or another the long-term custodial

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relationship if the court subsequently finds the placement to be no longer in the best interest of the child.

Section 28. Paragraph (b) of subsection (3) of section 39.0015, Florida Statutes, is amended to read:

- 39.0015 Child abuse prevention training in the district school system.--
 - (3) DEFINITIONS. -- As used in this section:
- 2560 (b) "Child abuse" means those acts as defined in ss.
- 2561 39.01(1), (2), (32), (42), (44), (55) (30), (43), (45), (52), and 2562 (66) (63), 827.04, and 984.03(1), (2), and (37).
 - Section 29. Subsection (5) of section 39.205, Florida Statutes, is amended to read:
 - 39.205 Penalties relating to reporting of child abuse, abandonment, or neglect.--
 - determined after its investigation that a report is false, the department shall, with the consent of the alleged perpetrator, refer the report to the local law enforcement agency having jurisdiction for an investigation to determine whether sufficient evidence exists to refer the case for prosecution for filing a false report as defined in s. 39.01(28) s. 39.01(27). During the pendency of the investigation by the local law enforcement agency, the department must notify the local law enforcement agency of, and the local law enforcement agency must respond to, all subsequent reports concerning children in that same family in accordance with s. 39.301. If the law enforcement agency believes that there are indicators of abuse, abandonment, or neglect, it must immediately notify the department, which must assure the safety of the children. If the law enforcement agency finds

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sufficient evidence for prosecution for filing a false report, it must refer the case to the appropriate state attorney for prosecution.

Section 30. Subsection (1) of section 39.302, Florida Statutes, is amended to read:

- 39.302 Protective investigations of institutional child abuse, abandonment, or neglect.--
- The department shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(33) or $(46) \frac{s.-39.01(31)}{s.-39.01(31)} = \frac{s.-39.01(31)}{s.$ acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall initiate a child protective investigation within the timeframe established by the central abuse hotline under pursuant to s. 39.201(5) and orally notify the appropriate state attorney, law enforcement agency, and licensing agency. These agencies shall immediately conduct a joint investigation, unless independent investigations are more feasible. When conducting investigations onsite or having face-to-face interviews with the child, such investigation visits shall be unannounced unless it is determined by the department or its agent that the such unannounced visits would threaten the safety of the child. When a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation is shall be entitled to full access to the information gathered by the department in the course of the investigation. A protective investigation must include an onsite

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visit of the child's place of residence. In all cases, the department shall make a full written report to the state attorney within 3 working days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in the such report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 31. For the purpose of incorporating the amendments made by this act to section 39.806, Florida Statutes, in a reference thereto, subsection (5) of section 39.802, Florida Statutes, is reenacted to read:

- 39.802 Petition for termination of parental rights; filing; elements.--
- (5) When a petition for termination of parental rights is filed under s. 39.806(1), a separate petition for dependency need not be filed and the department need not offer the parents a case plan with a goal of reunification, but may instead file with the court a case plan with a goal of termination of parental rights to allow continuation of services until the termination is granted or until further orders of the court are issued.
- Section 32. Subsection (1) of section 39.828, Florida Statutes, is amended to read:
 - 39.828 Grounds for appointment of a guardian advocate. --

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- (1) The court shall appoint the person named in the petition as a guardian advocate with all the powers and duties specified in s. 39.829 for an initial term of 1 year upon a finding that:
- (a) The child named in the petition is or was a drug dependent newborn as described in s. 39.01(32)(g) s. 39.01(30)(g);
- (b) The parent or parents of the child have voluntarily relinquished temporary custody of the child to a relative or other responsible adult;
- (c) The person named in the petition to be appointed the guardian advocate is capable of carrying out the duties as provided in s. 39.829; and
- (d) A petition to adjudicate the child dependent <u>under</u> pursuant to this chapter has not been filed.
- Section 33. Subsection (3) of section 63.092, Florida Statutes, is amended to read:
- 63.092 Report to the court of intended placement by an adoption entity; at-risk placement; preliminary study.--
- (3) PRELIMINARY HOME STUDY.--Before placing the minor in the intended adoptive home, a preliminary home study must be performed by a licensed child-placing agency, a child-caring agency registered under s. 409.176, a licensed professional, or agency described in s. 61.20(2), unless the adoptee is an adult or the petitioner is a stepparent or a relative. If the adoptee is an adult or the petitioner is a stepparent or a relative, a preliminary home study may be required by the court for good cause shown. The department is required to perform the preliminary home study only if there is no licensed child-placing

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agency, child-caring agency registered under s. 409.176, licensed professional, or agency described in s. 61.20(2), in the county where the prospective adoptive parents reside. The preliminary home study must be made to determine the suitability of the intended adoptive parents and may be completed prior to identification of a prospective adoptive minor. A favorable preliminary home study is valid for 1 year after the date of its completion. Upon its completion, a copy of the home study must be provided to the intended adoptive parents who were the subject of the home study. A minor may not be placed in an intended adoptive home before a favorable preliminary home study is completed unless the adoptive home is also a licensed foster home under s. 409.175. The preliminary home study must include, at a minimum:

- (a) An interview with the intended adoptive parents;
- (b) Records checks of the department's central abuse registry and criminal records correspondence checks <u>under s.</u> 39.0138 pursuant to s. 435.045 through the Department of Law Enforcement on the intended adoptive parents;
 - (c) An assessment of the physical environment of the home;
- (d) A determination of the financial security of the intended adoptive parents;
- (e) Documentation of counseling and education of the intended adoptive parents on adoptive parenting;
- (f) Documentation that information on adoption and the adoption process has been provided to the intended adoptive parents;
- (g) Documentation that information on support services available in the community has been provided to the intended adoptive parents; and

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(h) A copy of each signed acknowledgment of receipt of disclosure required by s. 63.085.

If the preliminary home study is favorable, a minor may be placed in the home pending entry of the judgment of adoption. A minor may not be placed in the home if the preliminary home study is unfavorable. If the preliminary home study is unfavorable, the adoption entity may, within 20 days after receipt of a copy of the written recommendation, petition the court to determine the suitability of the intended adoptive home. A determination as to suitability under this subsection does not act as a presumption of suitability at the final hearing. In determining the suitability of the intended adoptive home, the court must consider the totality of the circumstances in the home. No minor may be placed in a home in which there resides any person determined by the court to be a sexual predator as defined in s. 775.21 or to have been convicted of an offense listed in s.

Section 34. Paragraph (b) of subsection (3) of section 409.165, Florida Statutes, is amended to read:

409.165 Alternate care for children.--

(3) With the written consent of parents, custodians, or guardians, or in accordance with those provisions in chapter 39 that relate to dependent children, the department, under rules properly adopted, may place a child:

(b) With an adult nonrelative approved by the court for

under such conditions as are determined to be for the best

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permanent guardianship long-term custody;

interests or the welfare of the child. Any child placed in an institution or in a family home by the department or its agency may be removed by the department or its agency, and such other disposition may be made as is for the best interest of the child, including transfer of the child to another institution, another home, or the home of the child. Expenditure of funds appropriated for out-of-home care can be used to meet the needs of a child in the child's own home or the home of a relative if the child can be safely served in the child's own home or that of a relative if placement can be avoided by the expenditure of such funds, and if the expenditure of such funds in this manner is calculated by the department to be a potential cost savings.

Section 35. Paragraph (d) of subsection (1) of section 419.001, Florida Statutes, is amended to read:

419.001 Site selection of community residential homes .--

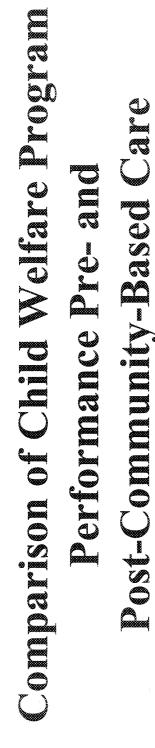
- (1) For the purposes of this section, the following definitions shall apply:
- (d) "Resident" means any of the following: a frail elder as defined in s. 400.618; a physically disabled or handicapped person as defined in s. 760.22(7)(a); a developmentally disabled person as defined in s. 393.063; a nondangerous mentally ill person as defined in s. 394.455(18); or a child who is found to be dependent or a child in need of services as defined in s. 39.01(14), s. 984.03(9) or (12), or s. 985.03(8).

Section 36. <u>Sections 39.601, 39.622, 39.623, 39.624, and</u> 435.045, Florida Statutes, are repealed.

Section 37. This act shall take effect July 1, 2006.

Page 95 of 95

PCB FFF 06-03 billdraft14955.doc



House Future of Florida's Families Committee

March 15, 2006

Jennifer Whipple, Ph.D., Legislative Policy Analyst, OPPAGA

Florida Legislature Office of Program Policy Analysis & Government Accountability



Evaluation Periods

Hiscal Vear 1998-99

- Last year before transition to Community-Based Care
- Examined performance at statewide and district levels

Fiscal Vear 2004-05

- First year fully transitioned to Community-Based Care
- Examined performance at statewide, district, and lead agency levels

Evaluation Questions

- Have program outcomes improved?
- Has the availability of foster homes and beds changed?
- What has been the impact of the transition to community-based care on case

Performance Factors: Outcome Measures

Safety

Recurrence of abuse

Safety and Permanency

Re-entry into system

Permanency

- Placement stability in out-of-home care
- Length of stay in out-of-home care
- Length of time to reunification
- Finalized adoptions

Performance Factors: Foster Care

- In Number of foster homes and beds
- Foster home utilization

Performance Factors: Case Managers

Case manager

- Salaries
- Vacancy rates
- Turnover rates

Average caseloads

Contracts and Children Have Increased Funding and Number of

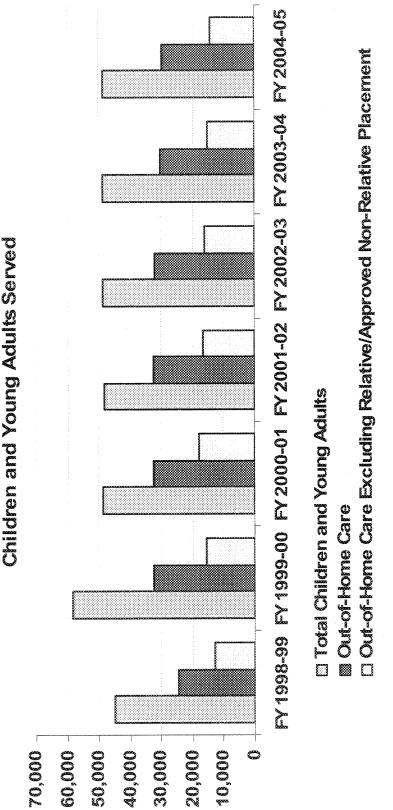
73	Service year		
Funding Per Child	Adjusted for	3153 1153 1153	
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Children		<u> </u>	9
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Source: OPPAGA analysis of Department of Children and Families data.

10.59% annual increase in funding per child

253% annual increase due to inflation

Tends in Number Served



Florida Legislature Office of Program Policy Analysis & Government Accountability

Have Program Outcomes Improved?

Improved

Not Improved

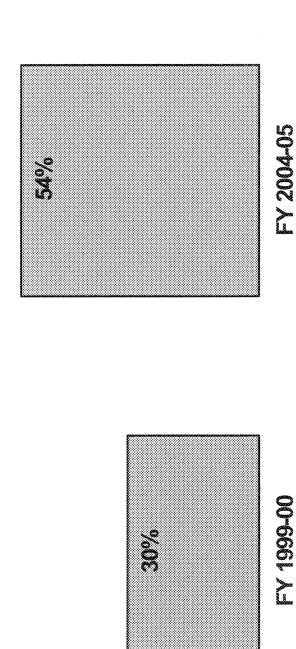
- More children exiting
 out-of-home care within
 12 months
- experiencing contabuse
- More children reunified
 within 12 months
- Higher Diacement

More adoptions finalized

Tigh rate of re-entry into out-of-home care

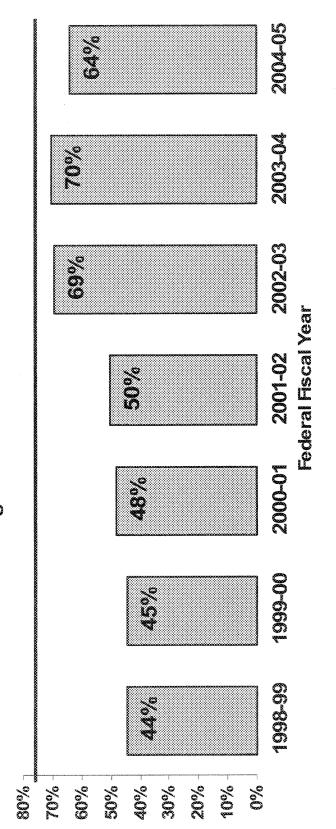
Out-of-Home Care Within 12 Months More Children Exiting

Percentage of Children Exiting Out-of-Home Care Within 12 Months of Removal



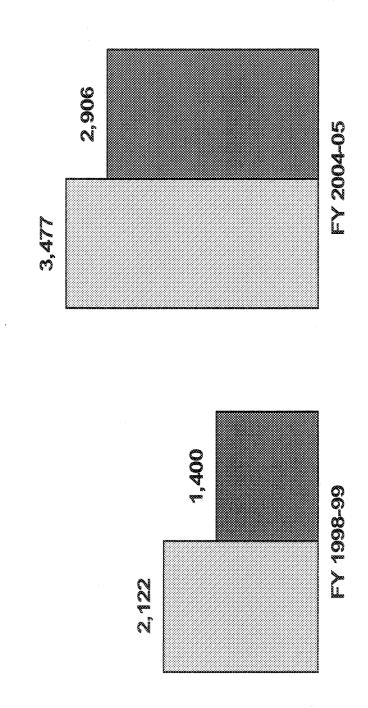
More Children Reunified Within 12 Months

Of Those Children Reunified, Percentage Reunified Within 12 Months



Florida Legislature Office of Program Policy Analysis & Government Accountability

More Adoptions Finalized



☐ Children Available for Adoption ☐ Finalized Adoptions

More Children Experiencing Recurrence of Abuse

Percentage of Children Without Recurrence of Abuse Within 6 Months of Previous Report

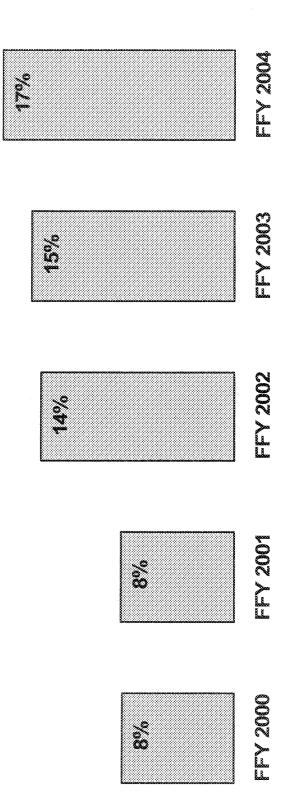
Ö

Statewide

× 8000 FY 02-05 %68 FY 03-04 % % FY 02-03 818 92% 2007 2000 83% 84% 1000 0000 1998 808 828

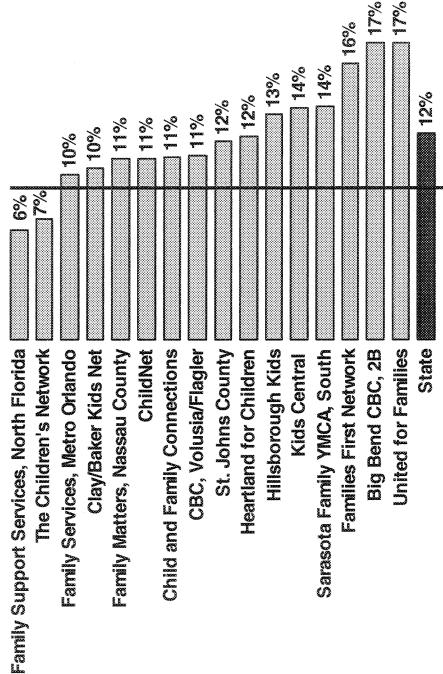
Higher Placement Instability

Percentage of Children with Three or More Placements in Less than 12 Nonths



High Rate of Re-Entry into Out-of-Home Care

Percentage Reentering Out-Of-Home Care Within 12 Months Of All Children Reunified During Fiscal Year 2003-04,



Statewide Goal 9%

Source: Department of Children and Families.

Florida Legislature Office of Program Policy Analysis & Government Accountability

Has the Availability of Foster Homes and Beds Changed?

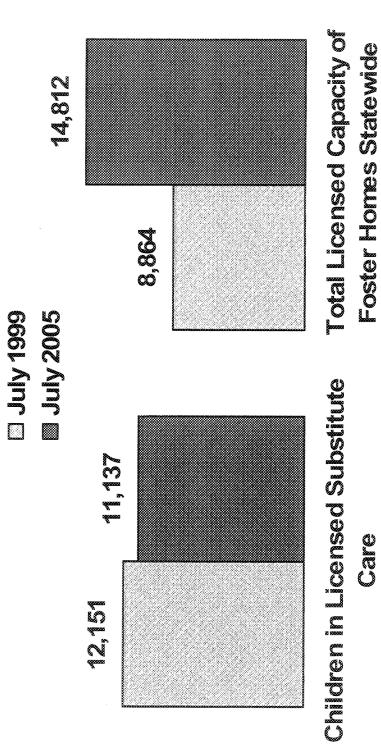
Improved

Progress Unclear

- Ligher foster home capacity
- More homes inder
- Fewer homes over capacity

Higher Foster Home Capacity



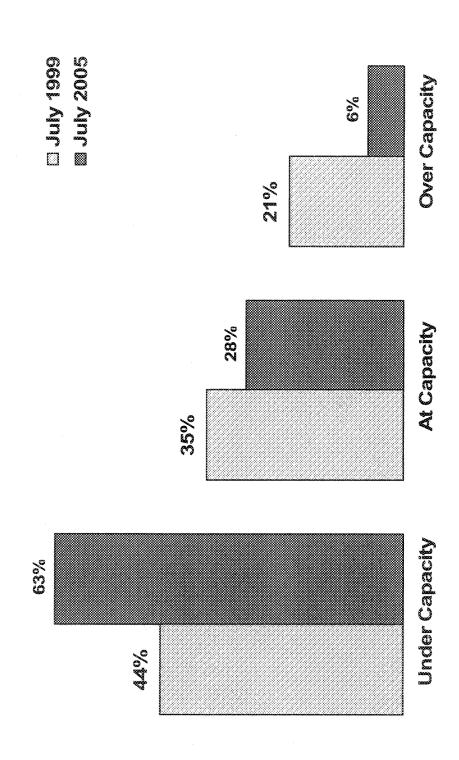


Source: OPPAGA analysis of Department of Children and Families data.

Florida Legislature Office of Program Policy Analysis & Government Accountability

Foster Home Utilization Mixed

Percentage of Foster Homes Under, At, and Over Capacity



Source: OPPAGA analysis of Department of Children and Families data.

Florida Legislature Office of Program Policy Analysis & Government Accountability

What has been the impact of the transition to community-based care on case managers?

Improved

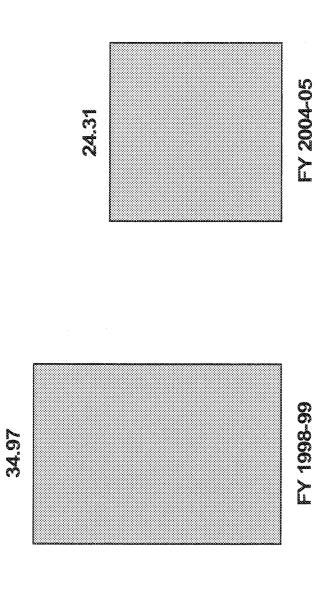
Not Improved

■ Lower caseloads

- Lower starting
- Lower vacancy rates
- Signty light

Lower Caseloads

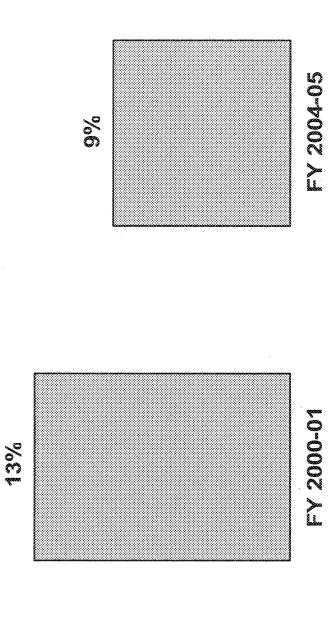
Average Amual Caseloads



Source: OPPAGA analysis of Department of Children and Families, Lead Agencies, and Case Management Organizations data.

Lower Vacancy Rates

Vacancy Rates for Counselor Positions



Source: OPPAGA analysis of Department of Children and Families, Lead Agencies, and Case Management Organizations data. Florida Legislature Office of Program Policy Analysis & Government Accountability

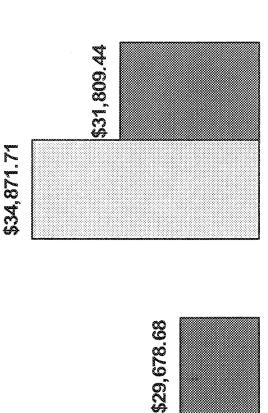
Lower Case Manager Starting Salaries

Counselor Starting Salaries

□ Department

■ Lead Agency Average

\$32,758.32



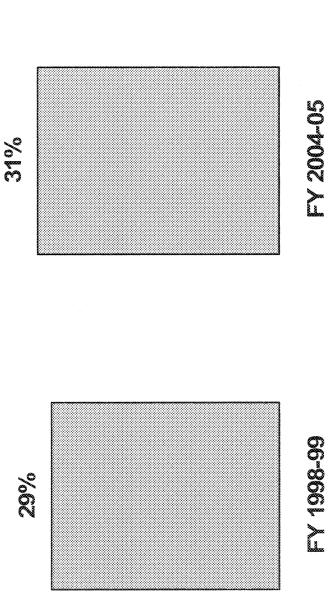
Certified

Source: OPPAGA analysis of Department of Children and Families, Lead Agencies, and Case Management Organizations data. Non-Certified

Florida Legislature Office of Program Policy Analysis & Government Accountability

Sightly Higher Turnover Rates

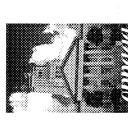
Turnover Rates for Counselor Positions



Source: OPPAGA analysis of Department of Children and Families, Lead Agencies, and Case Management Organizations data.

Contacts

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Office of Program Policy Analysis & Government Accountability

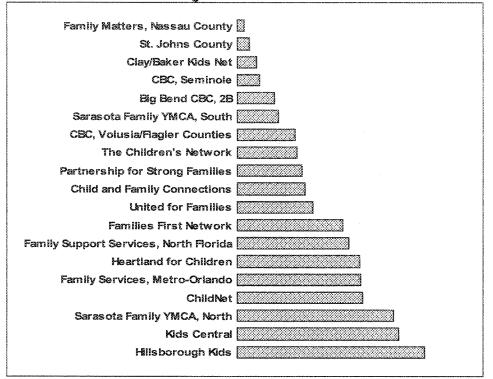
Comparison of
Child Welfare Program Performance
Pre- and Post-Community-Based Care:
Supplemental Information
by Lead Agency

March 15, 2006

Jennifer Whipple, Ph.D. Legislative Policy Analyst

Office of Program Policy Analysis and Government Accountability

Number of Children and Young Adults Served at the End of Fiscal Year 2004-05



Note: Does not include lead agencies in their first services contract year.

Source: Department of Children and Families

Of Those Children Reunified During Fiscal Year 2004-05, Percentage Reunified Within 12 Months

i didditado i todinida finicini i a i	191119
Lead Agency	Percentage of Children Reunified
CBC, Volusia/Flagler Counties	38%
Child and Family Connections	46%
Hillsborough Kids	47%
Sarasota Family YMCA (North)	54%
The Children's Network	56%
Family Support Services, North Florida	59%
Heartland for Children	60%
Big Bend CBC (2B)	63%
Family Services, Metro-Orlando	63%
ChildNet	64%
United for Families	67%
CBC, Seminole	68%
Partnership for Strong Families	70%
Sarasota Family YMCA (South)	72%
Families First Network	73%
Family Matters, Nassau County	75%
Clay/Baker Kids Net	76%
St. Johns County	77%
Kids Central	78%
Statewide Average	63%

¹Does not include lead agencies in their first services contract year.

Source: OPPAGA analysis of Department of Children and Families data.

Percentage of Children Without Recurrence of Abuse Within Six Months of Previous Report of Abuse During Fiscal Year 2004-05

ADUSE DUILING FISCAL LEGI ZUVY-UD	
	Percentage of
	Children Without
	lecurrence of Abuse
Heartland for Children	86%
Big Bend (2B)	87%
Partnerships for Strong Families	87%
St. Johns County	87%
CBC, Volusia/Flagler	87%
Kids Central	87%
Sarasota Family YMCA (South)	87%
Families First Network	88%
Sarasota Family YMCA (North)	88%
Clay/Baker Kids Net	89%
Hillsborough Kids	89%
Family Support Services, North Florida	90%
Family Services of Metro-Orlando	90%
Child and Family Connections	90%
Family Matters, Nassau County	91%
CBC, Seminole	91%
The Children's Network	91%
ChildNet	91%
United for Families	91%
Statewide Average	89%

Percentage of Children With Three or More Foster Home Placements in Less Than 12 Months During Fiscal Year 2004-05

	Percentage of
	Children With Three
Lead Agency	or More Placements
Family Support Services, North Florida	7%
Clay/Baker Kids Net	9%
Hillsborough Kids	10%
Child and Family Connections	12%
Family Matters, Nassau County	14%
St. Johns County	14%
Big Bend CBC (2B)	17%
Kids Central	17%
The Children's Network	18%
Heartland for Children	18%
CBC, Volusia/Flagler Counties	19%
United for Families	20%
Sarasota Family YMCA (South)	20%
Family Services, Metro-Orlando	21%
Families First Network	22%
CBC, Seminole	22%
Partnership for Strong Families	22%
ChildNet	27%
Sarasota Family YMCA (North)	31%
Statewide Average	18%

Of All Children Reunified During Fiscal Year 2003-04, Percentage Re-Entering Out-of-Home Care Within 12 Months

	Percentage of Children Re-
Lead Agency	Entering Out-of-Home Care
Family Support Services, North Florida	6%
The Children's Network	7%
Family Services, Metro Orlando	10%
Clay/Baker Kids Net	10%
Family Matters, Nassau County	11%
ChildNet	11%
Child and Family Connections	11%
CBC, Volusia/Flagler	11%
St. Johns County	12%
Heartland for Children	12%
Hillsborough Kids	13%
Kids Central	14%
Sarasota Family YMCA (South)	14%
Families First Network	16%
Big Bend CBC (2B)	17%
United for Families	17%
Statewide Average	12%

¹ Does not include lead agencies in their first services contract year. Source: OPPAGA analysis of Department of Children and Families data.

Annual Average Caseloads for Fiscal Year 2004-05

TO THOUSE TOUS MOUT OU	
Lead Agency ⁽	Average Caseload
Sarasota Family YMCA, Inc. (South)	16
Community Based Care of Seminole, Inc.	16
Child and Family Connections, Inc.	18
Family Services of Metro-Orlando, Inc.	19
ChildNet, Inc.	21
Hillsborough Kids, Inc.	21
St. Johns County Board of County	22
Family Support Services of North Florida, Inc.	23
Families First Network	24
The Children's Network	24
Big Bend Community Based Care (2B)	24
Clay and Baker Kids Net, Inc.	24
Sarasota Family YMCA, Inc. (North)	27
Heartland for Children	27
Community Based Care of Volusia and Flagler	28
Kids Central, Inc.	28
Partnership for Strong Families	28
Family Matters of Nassau County	32
United for Families, Inc.	38
Statewide Average	24

Vacancy Rates for Counselor Positions for Fiscal Year 2004-05

	Quarterly
Lead Agency	Average
St. Johns County	0%
ChildNet	0%
Family Services, Metro-Orlando	4%
CBC, Seminole	4%
The Children's Network	5%
Child and Family Connections	5%
Hillsborough Kids	6%
Clay/Baker Kids Net	6%
Sarasota Family YMCA (North)	7%
Families First Network	7%
Big Bend CBC (2B)	8%
Kids Central	9%
Family Support Services, North Florida	11%
Sarasota Family YMCA (South)	11%
Heartland for Children	13%
United for Families	14%
CBC, Volusia/Flagler	14%
Family Matters, Nassau County	21%
Partnership for Strong Families	22%
Statewide Average	9%

Turnover Rates for Counselor Positions for Fiscal Year 2004-05

IOI FISCAI TEAI 2004-00	
	Annual
Lead Agency ¹	Turnover
Sarasota Family YMCA (North)	6%
St. Johns County	7%
Sarasota Family YMCA (South)	12%
ChildNet	12%
Kids Central	20%
Families First Network	23%
The Children's Network	25%
Child and Family Connections	27%
Family Support Services, North Florida	32%
CBC, Volusia/Flagier	33%
Family Matters, Nassau County	33%
Family Services, Metro-Orlando	34%
Clay/Baker Kids Net	37%
Hillsborough Kids	51%
Heartland for Children	54%
United for Families	56%
Big Bend CBC (2B)	63%
Statewide Average	31%

¹ Does not include lead agencies in their first services contract year.

Source: Department of Children and Families, Lead Agencies, and Case Management Organizations data.

Lead Agency Starting Salaries as of December 2005

	Non-Certified
Lead Agency	Counselors (Case Managers)
Families First Network	\$26,302
Sarasota Family YMCA (North)	\$27,000
Sarasota Family YMCA (South)	\$27,000
CBC, Volusia/Flagler	\$28,000
Hillsborough Kids	\$28,624
CBC, Seminole	\$29,000
Our Kids. Miami-Dade/Monroe	\$29,000
Big Bend CBC (2B)	\$29,024
Family Support Services, North Florida	\$29,344
Heartland for Children	\$29,810
Partnership for Strong Families	\$29,925
United for Families	\$30,000
Big Bend CBC (2A)	\$30,033
The Children's Network	\$30,375
St. Johns County	\$30,805
CBC, Brevard	\$30,810
Kids Central	\$30,909
Clay/Baker Kids Net	\$31,000
Family Services, Metro-Orlando	\$31,372
Child and Family Connections	\$31,490
Family Matters, Nassau County	\$31,507
ChildNet	\$31,600
Statewide Average	\$29,679

	Certified Counselors
Lead Agency	(Case Managers)
Sarasota Family YMCA (North)	\$28,000
Sarasota Family YMCA (South)	\$28,000
Families First Network	\$28,282
Hillsborough Kids	\$30,113
Clay/Baker Kids Net	\$31,000
Family Support Services, North Florida	\$31,338
Family Matters, Nassau County	\$31,507
Big Bend CBC (2B)	\$31,707
CBC, Seminole	\$31,900
Partnership for Strong Families	\$31,969
Our Kids, Miami-Dade/Monroe	\$32,000
Kids Central	\$32,040
Family Services, Metro-Orlando, Inc.	\$32,272
Heartland for Children	\$32,311
Big Bend CBC (2A)	\$32,407
St. Johns County	\$32,691
CBC, Brevard	\$33,060
CBC, Volusia/Flagler	\$33,500
The Children's Network	\$33,638
Child and Family Connections	\$33,761
ChildNet	\$34,000
United for Families	\$34,313
Statewide Average	\$31,809

¹ Does not include lead agencies in their first services contract year.

Source: Department of Children and Families, Lead Agencies, and Case Management Organizations data.

SEPHOLE OF HOLDS, S TAMILES COMMITTE

Department of Children and Families Oversight of Community-Based Care Lead Agencies

February 22, 2006

LeNée Carroll, Legislative Policy Analyst, OPPAGA





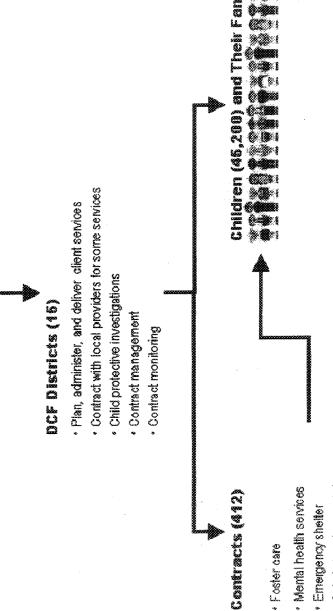
Purpose of Review

- 2005 Legislature directed OPPAGA and the Auditor General to review
- agencies accountable and monitor their ongoing the processes the department uses to hold lead Viability, and
- the performance of the CBC system compared to the department's performance

DCF Stricture Prior to CBC

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- · Family Safety Program planning and policy development
- · Child Welfare Legal Services



· Substance abuse services

· Adoption services

· Family preservation

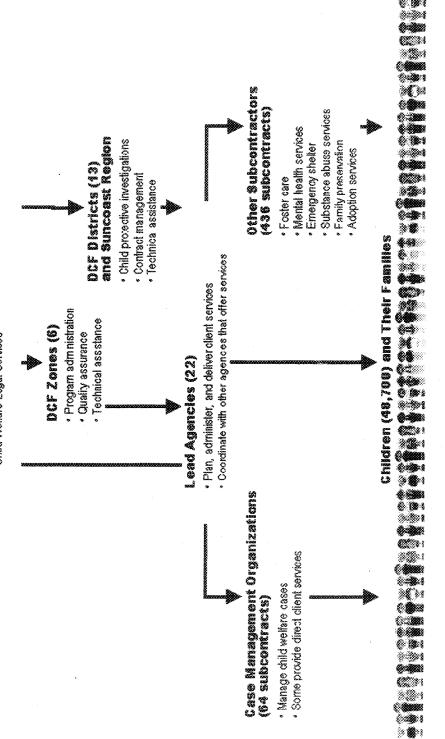
Florida Office of Program Policy Analysis & Covernment Accountability

CHEER SENCIRE HAS MORE LAYERS Between DCF and Service Delivery

Florida Department of children and Families (DCF)

 Family Safety Program oversight including contract monitoring) and policy development

· Child Welfare Legal Services



Overall Report Conclusions

- oversight of lead agencies concluded Our January 2006 report on DCF
- DCF is making changes to address weaknesses in oversight system
- Changes are positive, but challenges still need to be addressed

Many Lead Agencies Not Effectively Monitoring Subcontractors

- Contract monitoring during Fiscal Vear 17 of 19 eligible lead agencies received 2004-03
- 12 of 17 lead agencies had not adequately monitored subcontractors
- indenented their quality assurance plans • 6 of 17 lead agencies had not fully

Many Lead Agencies Not Complying With Contract Requirements

Department Monitoring Reports for Fiscal Years 2003-04 and 2004-05 Frequently Have Cited a Variety of Critical Lead Agency Violations

		Number of Violations Cited	ations Cite	
	F 2003-04	38-64	9-787.4	S
		Lead Agencies Monitored - 8)		
Not adequately monitoring subcontractors	25% (2)	(2)	71% (12)	3
Missing or inaccurate time logs	63%	<u>©</u>	%99	(
A lack of internal control over financial operations	38%	(3)	23%	3
Invoices not timely or accurate	%97	(9)	76.27	8
Not adequately conducting quality assurance reviews	25%	(2)	32%	9
Untimely foster care re-licensing	20%	(4)	79%	<u>©</u>
Untimely foster care licensing	13% (1)	(24%	(\$)

More Punitive Enforcement Tools Department Not Using

- Contracts with lead agencies authorize DCF to impose sanctions
- Less punitive include corrective action
- More punitive include assessing fines and terninating the contract
- Department has not often used its more punitive enforcement tools

O

Additional Enforcement Tools Department Needs

- Needs clear guidelines for imposing Sairtions on lead agencies
- Needs data system to track compliance histories of lead agencies
- Should annually report to the Legislature on lead agencies,

Additional Topics Evaluated

- Department quality assurance re-
- Shifts quality assurance responsibility from DCF to lead agencies
- Recommendations
- Contract monitoring turnover and

Ouestions?

Contacts

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Department Redesigned Quality Assurance

- Shifts quality assurance responsibility from DCF to lead agencies
- develop or obtain own data collection tools
- conduct reviews of services at least every 6
- Department review of lead agencies at least twice each three-year period
- Central office remains responsible for preparing the state for federal reviews

Quality Assurance Redesign Lacks Key Elements

- Clearly outline roles and responsibilities
- Provide additional guidance on criteria used to determine adequacy of quality
- Train lead agency and department

Lacks Key Elements (continued) Quality Assurance Redesign

- monitoring efforts of lead agencies Oversee mittal quality assurance
- Maintain capacity to provide quality assurance monitoring
- and provide a report to the Legislature Estimate fiscal impact of the redesign

Lack of Sufficient Contract Monitoring Expertise

- Department improving training for contract managers, but lacks a training program for contract monifors
- Contract monitoring reorganizations adversely affected staff expertise
- Not all lead agencies monitored in a timely manner
- 17 of 19 eligible lead agencies received contract monitoring
- The department took approximately 4 months to release reports compared to 1 month previously

Improvements in Independent Assist State's Struggling Youth Living Services Will Better

House Future of Florida's Families Committee

February 22, 2006

Linda Vaughn Senior Legislative Analyst Statils Landing Office of Program Policy Anglesis, & Covernment Accountability

What is Independent Living?

- program ideally providing youth ■ \$18 million transition assistance help with:
- Education
- Employment
- Housing
- Heath care
- Life skills
- Finances

Presentation Overview

have poor school and work outcomes Current and former foster youth

Few potentially eligible youth receive financial assistance

reviews do not require providers to Contracts and quality assurance meet minimum performance standards

Quick Facts About Current and Former Foster Youth

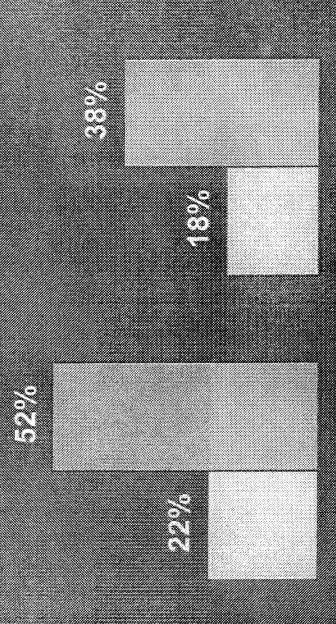
- 52% female
- 48% male

- 45% Caucasian
- 48% African American
 - 6% Hispanic 1% Other

Youth Problems Outside of Our Scope A Range of Factors May Contribute to

- Parenting
- Other unknown
 factors

Personal Their PCAT Examp



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Concret Montheritor

Provided to Former Foster Youth Three Types of Assistance Are

- Tansition assistance \$5,000
- Job training classes
- Afferent finding 91/98
- Prevents homelessness
- Koad-to-Independence \$10,704
- Supplements post-secondary living CXPCISCS

Few Potentially Eligible Youth Receive Financial Assistance

Only 28% of eligible youth receive financial assistance

Youth may not know they qualify

Department fails to track number of youth eligible - no waiting lists CBCs ran out of money - inadequate funding; budget caps exceeded

Insufficient OCF Oversight

- CBCs to meet minimum independent Contracts do not specifically require iving standards
- Quality management standards do not ASSESS GESTIFY

Recommendations to the Department

- Instruct CBCs to maintain waiting lists to better prioritize services
- vouth to determine their funding needs Collect data on transitioning foster
- disbursed funds to ensure they do not Improve oversight by tracking exceed established thresholds

Recommendations to the Department.

- minimum standards be placed in its Improve oversight by requiring Contracts
- Improve quality assurance standards so that they reflect quality

Questions?



Office of Program Policy Analysis & Government Accountability

CHALLA supports the Barida Legislature by providing cralitaine research and objective analyses to promitive greenmore accompatibility and the efficient and effective ass of public research